

# STATE OF TENNESSEE

## *Workers' Compensation Advisory Council*



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## ANNUAL REPORT - CALENDAR YEAR 2002

*including*  
**Statistical Report: Tennessee Workers' Compensation Data - 2002**  
*and*  
**Trends CY2000 - CY2002**

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STEVE ADAMS, STATE TREASURER  
CHAIR

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STEVE ADAMS, STATE TREASURER  
CHAIR

M. LINDA HUGHES  
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August, 2003

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**STATE OF TENNESSEE  
WORKERS' COMPENSATION ADVISORY COUNCIL  
ANNUAL REPORT  
CALENDAR YEAR 2002**

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Pursuant to *Tennessee Code Annotated* §50-6-121(c), the Workers' Compensation Advisory Council herewith submits its annual report for calendar year 2002:

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**HISTORICAL BACKGROUND**

The Workers' Compensation Advisory Council was created initially by the legislature in the Workers' Compensation Reform Act of 1992. The Workers' Compensation Reform Act of 1996 terminated that existing Advisory Council and created a new advisory council on workers' compensation. The Advisory Council initially was to be comprised of seven (7) voting members [six (6) appointed members and a chair to be selected by the appointed voting members], four (4) nonvoting members, and four (4) ex officio members.

In 1996, in accord with the statute, the Governor, the Speaker of the Senate and the Speaker of the House of Representatives each appointed one voting member to represent employers and one voting member to represent employees. The Governor appointed all nonvoting members: an attorney, a health care provider, an insurance company representative and a local government representative. The chair and vice chair of the Special Joint Committee on Workers'

Compensation<sup>1</sup> and the commissioners of Labor and Commerce & Insurance, or their designees, were designated as ex officio, nonvoting members. [*See*, TCA §50-6-121.]

In 1997, the statute was amended to add an additional nonvoting attorney member to be selected from a list of three names submitted by the Tennessee Trial Lawyers Association. As of January, 1998, a Chair had not been selected by the voting members. During the 1998 legislative session the General Assembly amended TCA §50-6-121 to designate the State Treasurer, or the Treasurer's designee, as Chair of the Advisory Council. That amendment became effective July 1, 1998 and on that date, Mr. Steve Adams, State Treasurer, assumed the position of Chair of the Advisory Council. The Chair may vote only on matters related to the administration of the Advisory Council or the Advisory Council's research and the chair may not vote on any matter which constitutes the making of a policy recommendation to the Governor or to the General Assembly.

During the legislative session of 2001, the General Assembly added an additional non-voting member to the Advisory Council to represent the Tennessee Defense Lawyers Association. In August, 2001, Katherine (Kitty) Boyte, was appointed by the Governor to fill this position.

**MEMBERSHIP CHANGES - 2002:** No new positions were added to the Advisory Council in calendar year 2002. However, the terms of three voting members expired and each was reappointed to a four year term [Jack Gatlin, Bob Pitts, Othal Smith]. In addition, the health care provider representative, Dr. Ron Bingham, resigned and Governor Sundquist appointed Dr. Claiborne Christian to complete the term of Dr. Bingham. A list of the members of the Workers' Compensation Advisory Council as of December 31, 2002, is attached as "APPENDIX - A" to this report.

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<sup>1</sup> *Tennessee Code Annotated* §50-6-130 created a "Special Joint Committee on Workers' Compensation"; however, it is often referred to as the "Joint Oversight Committee" or the "Joint Committee".

## DUTIES AND RESPONSIBILITIES OF THE ADVISORY COUNCIL

The statutory language of the Reform Act of 1996 , codified at *Tennessee Code Annotated* §50-6-121, outlines the authority given to the Advisory Council, its general duties and some of its specific responsibilities. In general, the Advisory Council is authorized to: monitor the performance of the workers' compensation system in the implementation of legislative directives; make recommendations to the Commissioner of Labor and the Commissioner of Commerce and Insurance relating to the adoption of rules and legislation; and make recommendations regarding the method and form of statistical data collections.

Specific duties and responsibilities of the Advisory Council are contained in various sections of the workers' compensation law and in the insurance law, codified in *Tennessee Code Annotated*, Titles 50 and 56, respectively. Annually, the Advisory Council is required to review the workers' compensation system in Tennessee and report its findings to the Governor, the Speakers of the Senate and House of Representatives and other specified members of the legislature. That is the purpose of this Annual Report.

Another responsibility of the Advisory Council is to provide the Commissioner of Commerce and Insurance with a recommendation regarding any advisory prospective loss costs filing made by the National Council on Compensation Insurers (NCCI), the authorized Tennessee rating bureau. In calendar year 2002, the Advisory Council considered and made recommendations on two loss costs filings the NCCI submitted to the Commissioner of Commerce and Insurance. The Advisory Council's actions regarding these filings are outlined herein.

In addition, the Advisory Council is directed to develop evaluations, statistical reports and other information from which the General Assembly may evaluate the impact of the 1992 Reform Act and subsequent changes to the workers' compensation system. The Department of Labor and Workforce Development has an integrated workers' compensation data system into which data contained on the statistical data forms received by the Department are entered into the data system. The Department has provided Advisory Council staff access to the data system which enables the Advisory Council to statistically evaluate the Tennessee workers' compensation system.

In 2001, the Advisory Council decided to include in each of its annual reports Tennessee specific statistics, evaluations and information from which the General Assembly can evaluate the impact of the 1992 and 1996 Reform Acts. In fulfillment of its obligation a study of Tennessee workers' compensation data from calendar year 2002 and trends for calendar years 2000 through 2002 are included herein as "Exhibit B".

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## **ACTIVITIES OF THE ADVISORY COUNCIL**

### **~CALENDAR YEAR 2002~**

The Advisory Council is required by statute to meet at least two times per year. In calendar year 2002, the Advisory Council met on five (5) occasions: February 15; August 22; September 19; October 10 and December 12. The minutes of the meetings of the Workers' Compensation Advisory Council can be reviewed at the Advisory Council's website: [www.state.tn.us/labor-wfd/wcac](http://www.state.tn.us/labor-wfd/wcac).

During calendar year 2002, the Advisory Council considered several issues impacting the Tennessee workers' compensation system. The following is a synopsis of the subjects which received the most attention of the Advisory Council in calendar year 2002. A review of the minutes of the meetings will provide details of all the issues discussed by the Advisory Council during the year.

#### **I. WORKERS' COMPENSATION LEGISLATION - Filed in 2002**

In January, 2002, the 102<sup>nd</sup> General Assembly of the State of Tennessee re-convened in Nashville. As has been the case in recent years, the Advisory Council was requested to review all proposed workers' compensation legislation and to make recommendations concerning the filed bills to the Joint Committee on Workers' Compensation.

The Advisory Council met on February 15, 2002 to consider the legislation that had been filed in 2002 and to provide comment and recommendations concerning the proposed legislation. Twenty-two (22) bills were reviewed by the Advisory Council. The Advisory Council submitted a written report to the Joint Committee on February 20, 2002 concerning its actions of February 15. The report included an analysis of each bill reviewed by the Advisory Council. The analysis included: a statement of the present law on the subject of the proposal; a summary of the proposed change; the practical effect of the proposed legislation; comments of various Advisory Council members; and the recommendation of the voting members of the Advisory Council.

On February 25, 2002, M. Linda Hughes, Executive Director of the Advisory Council, orally presented the Advisory Council's recommendations regarding the proposed workers' compensation legislation to the members of the Joint Oversight Committee on Workers' Compensation. The Advisory Council's specific recommendations regarding the pending workers' compensation legislation are reported in the minutes of the February 15, 2002 meeting [located on the Advisory Council website, [www.state.tn.us/labor-wfd/wcac](http://www.state.tn.us/labor-wfd/wcac)].

## **II. LOSS COSTS FILINGS**

As a result of the adoption of the loss costs system in 1996, the National Council on Compensation Insurance, Inc. [hereinafter, NCCI] files advisory prospective loss costs and rating values with the Commissioner of Commerce and Insurance. *Tennessee Code Annotated* §50-6-402 requires the Commissioner of Commerce and Insurance to consult the Advisory Council before approving any advisory prospective loss costs filing. The Advisory Council is then required to make written comment on the filing to the Commissioner of Commerce and Insurance within 60 days of the receipt of the filing.

The language of the 1996 Reform Act restricted the actions the Commissioner of Commerce & Insurance could take concerning advisory prospective loss costs filings. The Commissioner could either approve or disapprove the filing; the filing could not be modified by the Commissioner in any

way. In 1998, the statute was amended to permit the Commissioner of Commerce & Insurance to modify the filing, provided the modification is within the range established by the recommendation of the rate service organization [NCCI] in its filing and the recommendation of the Advisory Council.

The advisory prospective loss costs filings that were submitted to the Advisory Council in 2002 are summarized below.

#### **A. NCCI Terrorism Loss Costs Filing**

On December 27, 2001 the NCCI filed with the Commissioner of Commerce and Insurance a "Terrorism Filing" requesting an increase of +4.0% in the loss costs to cover losses due to terrorism or catastrophes. The Commissioner forwarded this filing to the Advisory Council for review and recommendation pursuant to *TCA* §50-6-402.

At the February 15, 2002 meeting (the first meeting of the year), the Advisory Council discussed and considered the "Terrorism Filing". Representatives of the NCCI presented the rationale for the filing as a need by insurance carriers to increase the loss costs to cover losses due to terrorism or catastrophes. Mr. Everett Sinor, Assistant Commissioner of the Department of Commerce and Insurance expressed concern regarding the filing for the following reasons: the proposed effective date of January 1, 2002 appeared to conflict with Tennessee law that states a loss costs filing becomes effective only when approved by the commissioner; the proposed filing would apply to rates for new, renewal and *existing* policies (emphasis added); and the description of the predicted loss severity and frequency was highly speculative.

After an opportunity to ask questions of the NCCI and the Department and a full discussion of the filing, the Advisory Council voting members unanimously agreed to recommend the Commissioner of Commerce and Insurance disapprove the filing. In addition, the members voted unanimously to recommend that the NCCI should re-submit the filing when the National Association of Insurance Commissioners had made a recommendation on the issue.

## **B. Advisory Prospective Loss Costs Filing - 2002 Annual Filing**

The NCCI filed its annual advisory prospective loss costs filing on August 16, 2002 requesting a decrease of 3.1% (i.e., -3.1%) to be effective on March 1, 2003. Commissioner Pope forwarded the filing to the Advisory Council and it was considered at the September 19, 2002 meeting.

Mr. Greg Alff, consulting actuary for the Advisory Council, noted Tennessee data shows good experience for 1999 and 2000 resulting in the recommended small negative change in the loss costs. However, Mr. Alff recommended a smaller decrease based upon (1) a somewhat higher trend factor than utilized by the NCCI in its filing as trends appeared to be increasing based on preliminary 2001 estimates; (2) retaining the current loss adjustment expenses instead of reducing the unallocated loss adjustment expenses as recommended by the NCCI; and (3) utilizing a higher net trend factor for indemnity and medical. Thus, Mr. Alff recommended the Advisory Council consider a *decrease* in the current loss costs between 0.5% and 0.9% [-0.5%; -0.9%].

Mr. Ed Costner, consulting actuary for the Department of Commerce and Insurance, expressed concern about the NCCI's recommended decrease because of a continued escalation in loss development factors. Mr. Costner recommended that the advisory prospective loss costs for 2003 should be *increased* between +2.0% and +5.0% instead of the *decrease* recommended by the NCCI.

The Advisory Council voting members unanimously recommended an overall loss costs change of 0.0% for 2003 and recommended that each of the class code relativities be readjusted accordingly. Subsequent to the September meeting, the Advisory Council received notification that the Commissioner of Commerce and Insurance, Anne Pope, approved a loss costs filing as recommended by the Advisory Council.

The 2002 filing marked the seventh year of the advisory prospective loss costs system in Tennessee. The following chart outlines the loss costs filings, the Advisory Council recommendations and the Department's approvals from 1996 through 2002:

| Year Filing Made | NCCI Filed Rate     | Advisory Council Recommendation   | Commerce & Insurance Approved Rate  | Effective Date                          |
|------------------|---------------------|---|---|---|
| 1996             | -5.4%               | -8.2%   | -8.2%   | 1/1/1997                                |
| 1997             | -3.4%               | -10.0%  | -7.0%   | 1/1/1998                                |
| 1998             | -10.3%              | -9.0%   | -9.0%   | 3/1/1999                                |
| 1999             | +3.3%               | +7.0%   | +7.0%   | 3/1/2000                                |
| 2000             | No Filing Submitted |   |   | Rates Effective<br>3-1-2000<br>Continue |
| 2001             | +0.5%               | +1.4%   | +1.4%   | 3/1/2002                                |
| 2002             | -3.1%               | 0.0%<br>with each class<br>code relativity to<br>be adjusted<br>accordingly | 0.0%<br>with each class<br>code relativity<br>to be adjusted<br>accordingly | 3/1/2003                                |

### C. Terrorism Filing [Pursuant to Federal Law]

Shortly after the terrorist attacks on September, 11, 2001, there arose a call for federal legislation to assist insurers and the public in the event of other terrorist attacks. Bills were introduced in both the United States Senate and the House of Representatives. In the Fall of 2002, the United States Congress passed and President Bush signed into law the Terrorism Risk Insurance Act of 2002. As a result of the federal act, on December 20, 2002, the NCCI filed in each of its jurisdictions, including Tennessee, "Item B-1383-Catastrophe Provision-Certified Terrorism Losses"

that contained proposed terrorism provisions. The Commissioner of Commerce and Insurance forwarded a copy of the filing to the Advisory Council. The filing, however, became effective on the filing date without any action by the Commissioner of Commerce and Insurance. The filing was for a proposed increase of +.02% for the Tennessee voluntary market. The Advisory Council did not meet to discuss or comment on this filing prior to December 31, 2002.<sup>2</sup>

### **III. WORKERS' COMPENSATION INSURANCE MARKET**

At the August 22, 2002 meeting, the Department of Commerce and Insurance presented an insurance market update to the Advisory Council members. Included in that presentation were the topics of terrorism; the Tennessee Insurance Guaranty Association; the Tennessee voluntary workers' compensation insurance market; and the Tennessee Assigned Risk Plan. In addition, at the September meeting, Mr. Thomas G. Redel, CPCU, Vice-President, Governmental Services Group, Aon Risk Services (Aon serves as the administrator of the Tennessee Assigned Risk Plan) made a presentation of assigned risk plan data to the Advisory Council. The following is a summary of the information concerning these topics of which the Advisory Council was made aware at these meetings.

#### **A. Terrorism**

The following were effects of the September 11, 2001 terrorist attacks on the national insurance industry in general (not limited specifically to workers' compensation):

- Prior to September 11<sup>th</sup>, the insurance market had begun to harden due to the competitive insurance price wars of the mid to late 1990s, the economic downturn and the "Bear" stock market.
- The estimates of insured losses as a result of the terrorist attacks are \$40.2 billion.

This entire insurance industry [all lines] collects \$1 trillion dollars in annual

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<sup>2</sup> The Advisory Council was advised by the Commissioner of Commerce and Insurance that the filing was not considered to be an "advisory prospective loss costs filing" necessitating a recommendation by the Advisory Council. The filing was forwarded to the Advisory Council for informational purposes only. The Advisory Council did discuss the filing at its first meeting in 2003 on January 30.

premiums; therefore, the losses due to 9/11 is 4% of the annual premiums. As of December 31, 2001, insurers had \$4.1 trillion in assets. [Source: Insurance Information Institute, July 2002]

- Property and Casualty insurers have \$1 trillion in assets and 2/3 of the assets are offset by liabilities/non-admitted. Total P&C surplus is \$298.2 billion as of June 30, 2002. Commercial (non-personal) surplus is \$150 billion. [Source: Insurance Information Institute, A.M.Best]
- The losses due to 9/11, per line of insurance are estimated to be:

|                              |                      |
|------------------------------|----------------------|
| Life                         | \$2.7 billion        |
| Property                     | \$9.5 billion        |
| Business Interruption        | \$11.0 billion       |
| Aviation                     | \$4.0 billion        |
| <b>Workers' Compensation</b> | <b>\$2.0 billion</b> |
| Event Cancellation           | \$1.0 billion        |
| Other Liability              | \$10.0 billion       |

[Source: Insurance Information Institute, July 2002]

- 17 insurers have reported losses exceeding \$0.5 billion; Lloyd's had the largest loss at \$2,913,000 and five (5) insurers had losses exceeding one million dollars. [Source: Morgan Stanley, Benfield Research, Insurance Information Institute, July 19, 2002]
- Following 9/11 most commercial policy coverage excludes terrorism and these policies have also had significant rate increases. Only one carrier in the personal insurance line has excluded terrorism and rates in personal lines have shown minor to moderate rate increases. Workers' Compensation coverage CANNOT exclude terrorism.
- The National Association of Insurance Commissioners formed a task force late in 2001 to address the NCCI's 4% "catastrophe" provision that was to have been effective on January 1, 2002. The position taken by the Task Force is that the catastrophe provision and related issues warrant further study. Concern was

expressed that all states do not have the same terrorism risk, the money from this “load” should be segregated into a separate fund for payment of terrorism losses and not placed into the carriers’ income stream. The NAIC sent a letter to the Senate urging passage of legislation making terrorism coverage affordable and available and the letter mentioned workers’ compensation as a “prime concern”.

## **B. Tennessee Insurance Guaranty Association [TIGA]**

As the workers’ compensation insurance market hardened nationally, several carriers became insolvent resulting in the inability to pay claims. As this concerned members of the Advisory Council, it requested the Department of Commerce and Insurance to provide information concerning these insolvencies and the mechanism by which workers’ compensation claims are paid to Tennessee insureds.

The Tennessee Insurance Guaranty Association (hereinafter, TIGA) is a statutory entity that pays a claim of an insured when the insurer is declared insolvent by the insurer’s state of incorporation. While claims are limited to a maximum of \$100,000 for general insurance, there is NO monetary limit to the amount the Guaranty Fund pays for a workers’ compensation claim. The following is general information regarding the Guaranty Fund.

- TIGA has two separate accounts - one for workers’ compensation [which has no maximum payout limit] and another for all other insurance losses.
- Each insurance company is assessed up to 2% of written premium for TIGA and each company is allowed a credit against premium taxes [maximum of 25% of taxes due each year] until the aggregate assessment has been paid.
- The Tennessee Attorney General has issued an opinion that TIGA does not cover excess insurance policies.
- From January, 2000, through June, 2002, the following workers’ compensation insurance companies entered bankruptcy or insolvency and TIGA has had to assume these losses:

| <u>Company</u>          | <u>Incurred Losses</u> |
|-------------------------|------------------------|
| Commercial Compensation | \$ 5,085,486           |
| Credit General          | \$ 8,726,311           |

|                         |               |
|-------------------------|---------------|
| International Indemnity | \$ 1,070,383  |
| Reliance                | \$ 31,000,780 |
| Phico                   | \$ 80,825     |
| TOTAL:                  | \$ 45,963,785 |

\*\*These companies are not domiciled in Tennessee and the Department depends on the domiciliary state to regulate their companies and to keep other states informed concerning companies in trouble. Tennessee conducts audits and financial reviews of only Tennessee companies.

- TIGA assessed a total of \$ 9,850,853 on December 28, 2000; \$10,815,508 on November 5, 2001 and it is estimated the 2002 assessment will be \$13,093,823.
- The Department estimates these figures leave a present balance of -\$12,203,601 when assessments are subtracted from the total incurred losses (anticipated reserved losses).
- As of August, 2002, the Legion Insurance Company had been placed into rehabilitation by the State of Pennsylvania and it is expected to have an estimated \$48,000,000 in workers' compensation losses in Tennessee. These also are anticipated reserved losses and this amount will be paid out over an extended period of time, not immediately.

### C. Tennessee's Workers' Compensation Insurance Markets

*General Assigned Risk Plan Information:* To understand the Tennessee workers' compensation insurance system and the significance of the Tennessee Assigned Risk Plan, a knowledge of the genesis of the Assigned Risk Plan and the statutory requirements applicable to insurers that are qualified to write workers' compensation insurance coverage in Tennessee is necessary. *Tennessee Code Annotated* §56-5-314(b)(3), enacted in 1983, requires any residual market mechanism, plan or agreement to implement such a mechanism to be submitted in writing to the Commissioner of Commerce and Insurance for approval. A "residual market mechanism", defined in *Tennessee Code Annotated* §56-5-302(9) [also enacted in 1983], is "an arrangement, either

voluntary or mandated by law, involving participation by insurers in the equitable apportionment among them of insurance which may be afforded applicants who are unable to obtain insurance through ordinary methods”.

In 1993, the General Assembly passed legislation, codified as *Tennessee Code Annotated* §56-5-314(c)(1), which directed the Commissioner of Commerce and Insurance to “implement a plan ... for the equitable apportionment among insurers of applicants for workers’ compensation insurance who are in good faith entitled to, but unable to procure through ordinary methods, such insurance.”<sup>3</sup> The description of the required “plan” is almost identical to the definition of **residual market mechanism** contained in the 1983 statute. A “residual market mechanism” is often referred to as “the residual market”, “the involuntary market” or “the market of last resort” in the workers’ compensation arena. In Tennessee, this residual market mechanism is generally referred to as the “Assigned Risk Plan”.

Tennessee law requires all Tennessee employers subject to the workers’ compensation law to either: (1) purchase workers’ compensation insurance from an authorized insurance company, (2) be approved as a self-insured employer, or (3) be a member of and insured by an approved self-insured trade or professional association. The residual market mechanism is designed to assure a qualified employer has an avenue open by which it is able to meet this statutory requirement. This is not unique to Tennessee, however, as all states, (even Texas which does not have mandatory workers’ compensation), have a method to provide a residual market mechanism to its employers.

The Tennessee Assigned Risk Plan, implemented by the Commissioner of Commerce and Insurance pursuant to *Tennessee Code Annotated* §56-5-314(c)(1), is a hybrid plan. It consists of both a direct assignment component and a reinsurance pooling arrangement component.

An insurance carrier may elect to become a direct assignment carrier, subject to the approval

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<sup>3</sup> Prior to the 1993 enactment, insurance carriers licensed to write workers’ compensation insurance in Tennessee had voluntarily participated in a “reinsurance pool” to provide employers who could not obtain coverage in the voluntary market with the mandated workers’ compensation coverage and to distribute the losses among the carriers according to voluntary market share. The National Council on Compensation Insurance, Inc. administered this “reinsurance pool” or “assigned risk pool” on behalf of the insurance industry. Documents provided by the NCCI indicate a voluntary plan for providing coverage to uninsured risks has existed in Tennessee since at least 1949 and perhaps much longer.

of the Department of Commerce and Insurance. Each direct assignment carrier is randomly assigned an employer/insured based on the percentage of workers' compensation business the carrier (and its affiliated group/s) wrote in the Tennessee voluntary market. Each direct assignment carrier receives the premium generated by the policies it is assigned and is solely and directly responsible to pay all claims made on each assigned policy. A direct assignment carrier (and all companies in the related carrier group) does not participate in the reinsurance pooling arrangement and the group has no obligation to pay losses incurred for any policies other than the policies assigned to and issued by it. As of June 30, 2002, there were ten (10) carriers approved by the Department of Commerce and Insurance as direct assignment carriers.<sup>4</sup> This is an increase of two from calendar year 2001.

In a reinsurance pooling arrangement policies are assigned to, written by and serviced by a small number of carrier(s) chosen by state regulators. The servicing carrier(s) issues the policies, collect the premiums and pay the claims. Premiums collected in excess of claims, losses and service fees (i.e., the "profit") are distributed among the plan administrator, the servicing carrier(s) and the insured employers. If the premiums collected are not sufficient to pay the claims, losses and service fees (i.e., the "loss"), then the excess losses are paid by all workers' compensation carriers (except direct assignment carriers) on a pro-rata basis based on each carrier/group's voluntary market share. All Tennessee carriers that have not elected to be direct assignment carriers must participate in the reinsurance pool arrangement or "assigned risk pool".<sup>5</sup> As of December 31, 2002, Liberty Mutual Insurance Company was the only servicing carrier for the Tennessee Assigned Risk Plan. It issued all of the policies written in the "assigned risk pool" portion of the Tennessee residual market mechanism and handled the claims for all policies written.

*General Tennessee Workers' Compensation Insurance Data:* The following information (presented to the Advisory Council by the Department of Commerce and Insurance) gives an outline

<sup>4</sup> The ten approved direct assignment carriers were: American Guarantee & Liability Insurance Company (Zurich); Cincinnati Insurance Company; Continental Casualty Company (CNA); Federal Insurance Company (Chubb); General Accident Insurance Company of America (CGU); Granite State Insurance Company (AIG); Royal and Sunalliance Insurance Company; St. Paul Fire & Marine Insurance Company; The Hartford Insurance Company; and Travelers Insurance Company.

<sup>5</sup> While the term "assigned risk pool" is sometimes used to refer to the Tennessee assigned risk plan, this is not accurate. The "pool" is the reinsurance mechanism component of the entire residual market mechanism or "plan" for Tennessee.

of the Tennessee workers' compensation insurance market, historically and as of mid-2002.

- Tennessee workers' compensation premium written by coverage type from 1999 to 2001 can be broken into these categories: Large Deductibles; Self-insured Employers; Self-insured Groups; Assigned Risk Plan; Voluntary Market [in millions of dollars]:

| <u>Type Coverage</u>      | <u>1999</u> | <u>2000</u> | <u>2001</u> |
|---------------------------|-------------|-------------|-------------|
| Large Deductible Policies | \$183       | \$ 215      | \$ 261      |
| Self-Insured Employers    | \$179       | \$ 206      | \$ 243      |
| Self-Insured Groups       | \$ 29       | \$ 27       | \$ 31       |
| Assigned Risk             | \$ 20       | \$ 33       | \$ 69       |
| Voluntary                 | \$540       | \$ 557      | \$ 592      |

- Workers' compensation insurance coverage written at loss cost multipliers above 1.1 increased greatly from 2000 to 2001.
- The average filed loss cost multiplier for 2001 was 1.255; the average for 2002 was 1.347
- Total Market Premium Projection:
  - \*Total market in Tennessee (voluntary and assigned risk) premium growth in 2001 was 12% (the greatest in 11 years)
  - \*For 2001 the loss costs increase was +1.4%
  - \*Insurance increases accompanied/followed by "migration" to alternative markets (Example: 2002, two new self-insured groups at \$8 million)
  - \*Assuming a 10% total market increase in 2002, the total market for workers' compensation in Tennessee for 2002 would be \$725 million.
- The Assigned Risk written premium continued to grow steadily from July 1999 to mid-2002.
- 2002 Assigned Risk Plan Projection as of mid-2002:
  - \*2001 Assigned Risk Premium was 10.5% of the "total" market
  - \*The 2002 assigned risk written premium will be approximately \$108 million

\*Assuming a total market of \$725 million and an assumed assigned risk market of \$108 million, then the percentage of the assigned risk plan will be approximately 14.9%, very near the 15% statutory trigger.

- The assigned risk plan policies written in the various ranges of premium continued to show a growth in the larger premiums from January 2001 through June 2002. A comparison of assigned risk policy size for policies written from January through June, 2001 to those written from January through June, 2002 shows the number of policies has increased by 20.4% and the total premiums have increased by 51.7%.
- The residual market load for 1998 was .98%; for 1999 it was .2% and for 2000 it was 2.74%; this load is minimal compared to the early 1990's.

#### **IV. TENNESSEE ASSIGNED RISK PLAN**

Following the implementation of the loss costs system in 1996, the number of employers insured through the Tennessee Assigned Risk Plan dramatically decreased until Plan Year 2000<sup>6</sup>. The depopulation of the Assigned Risk Plan from 1996 through 1999 resulted from the persistent competitive nature of the Tennessee voluntary market in general and specific initiatives of voluntary programs to target assigned risk business. Thus, the number of businesses insured in the Assigned Risk Plan decreased and, therefore, the premium volume declined.

However, the depopulation of the Tennessee Assigned Risk Plan dramatically reversed during Plan Year 2000. This was due to a number of factors that affected both Tennessee and the nation. These factors included the hardening of the workers' compensation insurance market, the downturn of the stock market and the insolvency of several overly competitive insurance companies, including companies highly leveraged in the reinsurance market. Some of these insurers were the Reliance Group, Superior National and Legion Insurance Company.

As a result of all these factors, the number of businesses insured in the Plan increased causing

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<sup>6</sup> The term "plan year" refers to the insurance policies written in a specific calendar year.

an increase of the percentage of the market that is in the Plan and the premium volume in the Plan. In addition, the total Plan premium increased as a result of an rate increases for the Assigned Risk Plan in each of the last four years.

The following gives the Tennessee residual market (Assigned Risk Plan) share of the total workers' compensation earned premiums from 1990 to 2002.<sup>7</sup>

| YEAR | ASSIGNED<br>RISK PLAN % | YEAR              | ASSIGNED<br>RISK PLAN % |
|------|-------------------------|-------------------|-------------------------|
| 1990 | 26.7%                   | 1997              | 15.9%                   |
| 1991 | 32.4%                   | 1998              | 4.1%                    |
| 1992 | 41.2%                   | 1999              | 3.6%                    |
| 1993 | 54.9%                   | 2000              | 5.6%                    |
| 1994 | 52.0%                   | 2001              | 10.5%                   |
| 1995 | 42.4%                   | 2002 <sup>8</sup> | 14.88%                  |
| 1996 | 30.1%                   |                   |                         |

## V. WORKERS' COMPENSATION FRAUD

*Tennessee Code Annotated*, §50-6-121(f) [amended in 2002] requires the Advisory Council to report on the activities and outcomes of the Workers' Compensation Fraud Act within its annual report. The following information is provided in compliance with that mandate.

<sup>7</sup> TCA 56-5-314(c)(3) states when the Commissioner is calculating the percentage of the Assigned Risk Plan to the total market that self-insured employers and self-insured groups are not included. Therefore, these figures are calculated as a ratio of the Assigned Risk Plan premium to the total premiums in the Assigned Risk Plan plus the voluntary market.

<sup>8</sup> This figure was contained in the June 16, 2003 "informational only" letter from Ms. Paula A. Flowers, Commissioner of Commerce and Insurance to Mr. Steve Adams, Chair of the Advisory Council. [See, TCA §56-5-314(c)(3)] The determination was based upon a comparison of written premium amounts for calendar year 2002. The assigned risk information was supplied by Aon Risk Services, the plan administrator, and the total market information was obtained from annual statements submitted simultaneously to the Tennessee Department of Commerce and Insurance and the National Association of Insurance Commissioners.

As part of the general reform of workers' compensation in 1996, the General Assembly enacted Title 56, Chapter 47 known as the "Workers' Compensation Fraud Act". Included in the statute are prohibitions of "fraudulent insurance acts" and "unlawful insurance acts". The statute also established a penalty structure for violations of the Fraud Act.<sup>9</sup>

Also in the Reform Act of 1996, the General Assembly mandated the commissioners of labor and workforce development and commerce and insurance to implement a public awareness program concerning workers' compensation fraud [TCA §50-6-127(a)]; mandated the division of workers' compensation to investigate to determine whether any fraudulent conduct relating to workers' compensation is being practiced and to refer any finding of fraud to an appropriate law enforcement agency [TCA §50-6-127(b)]; and mandated that the Tennessee Bureau of Investigation (hereinafter, TBI) establish a special workers' compensation fraud investigation unit within the criminal investigation division [TCA §38-6-102(d)].

The Workers' Compensation Fraud Unit of the TBI was established on July 1, 1996.<sup>10</sup> During the years from July 1, 1996, the Fraud Unit received referrals from several different sources, including the Department of Labor and Workforce Development, the Department of Commerce and Insurance, district attorneys, attorneys, and other law enforcement agencies. Statistics concerning the activities of the Fraud Unit have been included in each annual report (fiscal year) of the Tennessee Bureau of Investigation.

The following table lists the pertinent statistics concerning the Fraud Unit from these annual reports.<sup>11</sup>

---

<sup>9</sup> The penalties have been strengthened twice since 1996 - currently violations are valued and punished in the same manner as criminal theft and employers who knowingly fail to secure payment of workers' compensation through purchase of insurance or qualification as self-insured are punished in accord with the amount of premiums avoided.

<sup>10</sup> Effective July 1, 2003, the Workers' Compensation Fraud Unit was eliminated due to state budget cuts. According to Ms. Karen Alexander, Assistant Special Agent in Charge, workers' compensation fraud referrals will be made directly to the District Attorney in the jurisdiction where the fraud occurred. The District Attorney may still send the TBI a request for investigation to pursue criminal prosecution for fraud referrals where it appears that criminal workers' compensation violations have occurred. After July 1, 2003, the workers' compensation investigations will be conducted by the TBI field agents, who work in the Criminal Investigations Division.

<sup>11</sup> The TBI annual report for Fiscal Year 2002-03 has not been published. The information for this time period was supplied by Ms. Karen Alexander, Assistant Special Agent in Charge, Workers' Compensation Fraud Unit.

| FISCAL YEAR   | 96-97 | 97-98 | 98-99 | 99-00 | 00-01 | 01-02 | 02-03   | TOTALS   |
|---|-------|-------|-------|-------|-------|-------|---|--|
|   |       |       |       |       |       |       |   |  |
| Total Referrals Received  | 49    | 65    | 68    | 47    | 62    | 35    | 28  | 354  |
| Total Referrals Being Investigated As Of End of Fiscal Year<br>[can include referrals from prior years] | 35    | 45    | 58    | 43    | 56    | 51    | 46  | Total is not appropriate as these carried over from one fiscal year to the next. |
| Indictments   | 4     | 4     | 2     | 6     | 4     | 5     | 5 (one person indicted in two different counties) | 30   |
| Convictions<br>(includes guilty pleas)  | 0     | 4     | 5     | 6     | 6     | 1     | 5   | 27   |

The total number of referrals were received from several sources. The following chart lists the number of referrals from each source:

| # REFERRALS<br>PER FISCAL YEAR                   | 96-<br>97 | 97-98 | 98-99 | 99-00 | 00-01 | 01-02 | 02-03 | TOTALS |
|--|-----------|-------|-------|-------|-------|-------|-------|--------|
| Source of Referral:                              |           |       |       |       |       |       |       |        |
| Department of Labor and<br>Workforce Development | 35        | 54    | 58    | 43    | 60    | 34    | 27    | 311    |
| Department of Commerce<br>and Insurance          | 5         | 9     | 6     | 1     | 2     | 1     | 1     | 25     |
| District Attorneys General                       | 3         |       |       |       |       |       |       | 3      |
| Local Law Enforcement<br>Agency                  | 1         | 1     | 2     | 1     |       |       |       | 5      |
| Health Related Boards                            | 3         |       |       |       |       |       |       | 3      |
| Attorney   | 2         | 1     | 2     | 2     |       |       |       | 7      |
|  |           |       |       |       |       |       |       | 454    |

In addition to the statistics contained in the TBI's annual reports, the Fraud Unit also issued press releases concerning fraud convictions that were placed on its website. To give the reader an understanding of the types of workers' compensation fraud prosecuted to a conviction (plea or verdict) the following table is supplied. The contents of the table were developed from information contained in the press releases.<sup>12</sup>

| Date of<br>Conviction | County and<br>Court | Type of Conviction and Type of<br>Fraud  | Sentence                      | Monetary<br>Restitution |
|-----------------------|---------------------|--|-------------------------------|-------------------------|
| 2/19/1998             | Coffee<br>Circuit   | Guilty Plea - Surveillance<br>revealed actions inconsistent<br>with stated abilities.  | 1 Year <u>Probation</u>       | \$10,000.               |
| 4/28/1998             | Franklin<br>Circuit | Guilty Plea (Class E Felony)-<br>Altered doctor's medical report<br>to increase permanent<br>impairment rating to obtain<br>larger disability settlement | 24 Months<br><u>Probation</u> | \$2,600.                |

<sup>12</sup> Staff of the Advisory Council was unable to locate any press releases after November, 2002.

|           |                      |  |   |   |
|-----------|----------------------|--|---|---|
| 5/29/1998 | Davidson Circuit     | Guilty Plea (1 Felony Count of Theft over \$1,000 and 1 Felony Count of Aggravated Perjury) - Received work comp benefits to which was not entitled; made material misrepresentations to employer regarding medical history and prior work comp claims | 3 Years <u>Probation</u>  | Ordered to pay restitution to insurer and employer - amount not identified. |
| 11/5/1998 | Obion Gen'l Sessions | Guilty Plea (Offense of Theft) - Employee visited several doctor's offices pretending to have a work comp injury to obtain medical treatment and prescriptions to which he was not entitled  | 11 Months, 29 Days of <u>Supervised Probation</u>   | \$1,676.50  |
| 4/1/1999  | Hamilton Criminal    | Guilty Plea (Felony Offense of Theft of Property by Fraud) - Surveillance revealed actions inconsistent with stated abilities  | 2 Years in a Tennessee Department of Correction facility - <u>Sentence Suspended</u>      | \$9,605.31  |
| 4/21/1999 | Shelby Criminal      | Guilty Plea (Fraudulent Insurance Act Violation) - Employee received workers' compensation benefits in excess of \$10,000 - investigation revealed injury was not work related   | 6 Months in <u>County Workhouse</u> in lieu of paying restitution <u>Fine</u> of \$526.50 |   |
| 4/21/1999 | Shelby Criminal      | Guilty Plea (Theft) - intercepted two workers' compensation benefit checks [to employee above], forged the checks and kept the money   | <u>Fine</u> of \$500  | \$1,067.20  |

|           |                   |   |  |                           |
|-----------|-------------------|---|--|---------------------------|
| 7/15/1999 | Obion Circuit     | Guilty Plea (1 Misdemeanor Count; 1 Felony Count of work comp fraud) - altered doctor's and therapist's notes enabling employee to remain off work and receive disability payments  | 11 Months, 29 Days, <u>Suspended</u> for Misdemeanor; 2 Years in Jail, <u>Suspended</u> for Felony | \$1,622.45                |
| 8/19/1999 | Madison Circuit   | Guilty Plea (1 Felony Count of work comp fraud; 1 Felony Count of filing false insurance claim) -   | 6 Years in Jail - to be served in <u>community based alternative program</u>                       | \$14,613.00               |
| 9/13/1999 | Hamilton Circuit  | Guilty Plea (1 Felony Count of aggravated perjury; 1 Felony Count of filing false insurance claim) - made material misrepresentations regarding extent of injury, prior work related injuries and ability to work [surveillance revealed employee able to work another job] | 4 Years in Jail - <u>Suspended</u> ; 8 Years of <u>Supervised Probation</u>                        | \$8,893.94                |
| 10/8/1999 | Henderson Circuit | Guilty Plea (1 Felony Count of Aggravated Perjury) - made material misrepresentations regarding follow-up treatment in attempt to obtain \$10,000 settlement  | 2 Years in Jail, <u>Suspended</u>  |                           |
| 5/2/2000  | Not Given         | Guilty Plea (1 Felony Count of Criminal Attempt-Fraudulent Insurance Claim)   | 1 Year in County Workhouse, <u>Suspended</u> ; 6 Months <u>Probation</u>                           | \$5,774.28                |
| 5/24/2000 | Not Given         | Found Guilty (7 Counts of Perjury in Madison County and 1 Count of filing false insurance claim in Henderson County)  | 4 Years <u>Supervised Probation</u>  | \$47,708 plus court costs |

|                                 |                                |   |  |  |
|---------------------------------|--------------------------------|---|--|--|
| 7/14/2000                       | Not Given                      | Guilty Plea (1 Felony Count of work comp fraud \$1,000 - \$10,000)  | 3 Years in Jail; <u>90 days to serve</u>   | \$4,478.40 plus court costs and fines                                |
| 7/14/2000                       | Not Given                      | [Wife of Prior Employee] Guilty Plea to work comp fraud   | 3 Years <u>Probation</u> , 150 Hours <u>Public Service Work</u>  | Jointly liable with husband to pay \$4,478.40 (plus costs and fines) |
| 7/20/2000                       | Rhea Circuit                   | Pre-Trial Diversion Program ordered for felony fraudulent insurance act violation   | 2 Years <u>Probation</u> ; 100 Hours of <u>Public Service Work</u>   | \$5,000  |
| 8/14/2000                       | Washington Criminal            | Guilty Plea (1 Felony Count of Fraudulent Insurance Acts over \$500)  | <u>1 Year in Jail</u> [30 days left to serve]; 6 Months Probation  | \$922.31   |
| 9/15/2000                       |                                | Guilty Plea (1 Felony Count of Fraudulent Insurance Claim and 1 Felony Count of Aggravated Perjury in Madison County)   | 4 Years of Suspended Probation for Each Count  |  |
| 12/13/2000                      | Rhea Circuit                   | Pre-Trial Diversion Program ordered for felony fraudulent insurance act violation   | 2 Years <u>Probation</u> and 100 Hours of <u>Public Service Work</u>   | \$12,742.47  |
| 1/16/2001<br>(date of sentence) | Jackson TN U.S. District Court | Guilty Plea (1 Count mail fraud - entered August 2, 2000) - after carpal tunnel surgery employee faked more serious illness of reflex sympathetic dystrophy to obtain additional work comp benefits | 4 Months in <u>Minimum Security Federal Prison</u> ; 4 Months <u>House Arrest</u> ; 8 Months <u>Supervised Probation</u> ; 100 Hours of <u>Community Service</u> | \$40,000   |

|           |                   |  |                                     |             |
|-----------|-------------------|--|-------------------------------------|-------------|
| 4/27/2001 | Not Given         | Guilty Plea (1 Felony Count of work comp fraud over \$10,000 and 1 felony count of filing false insurance claim)   | 6 Years <u>Supervised Probation</u> | \$11,120.69 |
| 11/4/2002 | Robertson Circuit | Pre-Trial Diversion Program ordered for 1 year (for felony fraudulent insurance act violation) - employee knowingly made material fraudulent representations regarding work comp injury for purpose of obtaining additional compensation |                                     | \$1,374.16  |

## VI. STUDIES AND WORKERS' COMPENSATION DATA

### A. Studies

The General Assembly of the State of Tennessee directed the Workers' Compensation Advisory Council to study and report on three issues which were topics on several Advisory Council agendas in calendar year 2002.<sup>13</sup> The three issues are:

1. Findings and recommendations, if any, on methods to control the growth of medical costs within the workers' compensation system. [Acts 2002, ch. 695, § 2, effective May 1, 2002.]
2. The impact of the statutory requirement that all employees who sustain a back injury in the course and scope of their employment be provided a panel choice of medical care providers that includes a chiropractor. [Acts 2000, ch. 990, §4, effective June 27, 2000]
3. The impact of *Tennessee Code Annotated* §50-6-110(c) on the payment of a health care provider's claim for emergency and stabilization services provided to an employee covered by workers' compensation and notification of providers of health related to the workplace injury. [Acts 2002, ch. 695, § 6, effective May 1, 2002.] (This statute is related to the issue of an employer's defense to a workers' compensation claim based on the employee's intoxication by either alcohol or drugs.)

### ***Medical Costs Study:***

To equip itself to more fully report to the General Assembly concerning the issue of medical costs, the Advisory Council devoted the majority of its October 10, 2002 meeting to the issue of medical costs and methods available to control medical costs. Included in that meeting was a report

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<sup>13</sup> Two of the reports were due on December 15, 2002 and one on January 15, 2003. The Advisory Council advised the General Assembly by letter dated December 13, 2002 that the reports would be combined and forwarded to the General Assembly after its January, 2003 meeting.

from the Workers' Compensation Research Institute (hereinafter, WCRI)<sup>14</sup> on three (3) WCRI published studies: (1) *The Anatomy of Workers' Compensation Medical Costs and Utilization: Trends and Interstate Comparisons, 1996-1999* (2) *National Inventory of Managed Care and Medical Cost Containment* (3) *Benchmarks for Designing Workers' Compensation Medical Fee Schedules*.

In addition to the WCRI presentation, the Advisory Council received information from the NCCI concerning a historical comparison of medical costs and persons interested in the issue were invited to submit written comments to the Advisory Council and to make oral presentations at the meeting.

The Advisory Council also determined the Workers' Compensation Reform Acts of 1992 and 1996 enacted several medical cost containment strategies. Some strategies have been in the law for many years. The following is a listing of the cost containment strategies that are available to the employers and insurers of Tennessee under Tennessee workers' compensation law:

- Limited Initial Provider Choice [TCA §50-6-204]  
The employer provides the employee with a panel of approved medical care providers from which the employee chooses the attending physician/practitioner.
- Limited Provider Change [TCA §50-6-204]  
The employee cannot change the authorized attending physician without approval of the employer/insurer. The employer may require the employee to submit to independent medical examination.
- Mandated Case Management [TCA §50-6-122,123] [Regulation 0800-2-7]  
Case management is mandated for claims that reach either of three thresholds: (1) the total medical costs are expected to exceed \$10,000 (2) hospitalization is required or (3) the employee misses seven (7) days of work. Case management is permitted in

<sup>14</sup> WCRI is a non-profit research organization that conducts studies concerning workers' compensation issues across the United States. They are funded by their members, comprised primarily of insurers, employers, as well as state agencies and some labor organizations. The Institute prides itself on unbiased reports that represent all interests. In addition, the Institute does not take positions on the results of the research and does not make recommendations concerning specific actions a state may wish to take as a result of the research.

all cases.

- Mandated Utilization Review [TCA §50-6-122,123] [Regulation 0800-2-6]

The statute authorizes the Commissioner of Labor and Workforce Development to establish a system of utilization review through rule/regulation. A system of pre-admission review of all hospital admissions and review of emergency admissions within one day is mandated.

- Medical Cost Disputes [TCA §50-6-125]

The Commissioner of Labor and Workforce Development appoints members of a Medical Care and Cost Containment Committee. Disputes between medical care providers and the insurance carrier, self-insured employer or third party administrator may be submitted to the Committee for review and determination as to whether the charges comply with the “usual and customary” requirement of Tennessee law.

- Managed Care [TCA §50-6-123]

Managed care is permitted by statute but is not mandated.

Readers who are interested in the specifics of the October meeting are encouraged to review the minutes of the meeting that are available on the Advisory Council's website.

### ***Chiropractic Study:***

In 2000, the Tennessee General Assembly enacted an amendment to *Tennessee Code Annotated* §50-6-204(a)(4)(B) that requires an employer or insurer to provide an employee who sustains a back injury in the course and scope of employment a panel choice of four (4) physicians/providers that shall include a chiropractor. In the same legislation, the Advisory Council was directed to report on the effect the implementation of the statute has had on the Tennessee workers' compensation system. Subsequent amendments to the statute directed the report was due in December, 2002.

A subcommittee of the Advisory Council was appointed to study this issue and report to the members. The Tennessee Chiropractic Association was invited to share information with the members and was given an opportunity to address the subcommittee. In addition, the Advisory Council attempted to locate data specific to Tennessee that would provide insight into the issue and that would determine how the parties were implementing the statute. However, the Advisory Council was unable to locate any specific Tennessee data on chiropractic utilization and costs.

The Advisory Council discussed this issue for a final time at its December 12, 2002 meeting. The Advisory Council determined it does not have sufficient information to draw any conclusions as to the effectiveness [on either a medical outcome basis or a cost effectiveness basis] of the statute. The Advisory Council also concluded that anecdotal evidence known to the members of the Advisory Council did not support a conclusion that the statute was detrimental to the system. Therefore, the Advisory Council unanimously agreed to recommend the General Assembly consider legislation to provide for a two (2) year extension of the statute so the sunset date would become July 1, 2005.<sup>15</sup>

### ***Payment for Emergency Treatment [Positive Drug Test] Study***

In 1996, the General Assembly passed the Drug-Free Workplace Statute (codified in *Tennessee Code Annotated*, Title 50, Chapter 9) that established a mechanism by which an employer can be certified by the Department of Labor and Workforce Development as a “Drug-Free Workplace”. Such a certification provides a discount on workers’ compensation insurance and shifts the burden of proving the intoxication defense from the employer to the employee to prove the injury was not caused by the employee’s intoxication.

It has been longstanding law in Tennessee, and certainly prior to the enactment of the drug-free workplace statute, that employers have the right to deny a workers’ compensation claim and to

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<sup>15</sup>The General Assembly did enact a statute during the 2003 legislative session that extends the sunset date to 2005. [See, Public Chapter 359, effective June 17, 2003.]

deny payment of any medical expenses if the employer determines the injury was due to the employee's intoxication. It appears the only difference in Tennessee law regarding denial of a claim due to intoxication is the shift of the burden of proof from the employer to the employee for those employers that maintain a certified drug-free workplace. Employers who are not "certified" drug-free workplaces are still allowed to deny a claim based on the intoxication defense and are still allowed to deny payment of any medical expenses incurred by the employee.

It came to the attention of the Advisory Council that medical care providers, most of which are hospitals providing emergency care, are being denied payment of the medical expenses by employers and/or insurers due to the employee's intoxication at the time of the work-related injury. In 2002, a bill was introduced in the General Assembly that sought to address this issue. As a result, the Advisory Council was directed to study and report on the issue.

During the final quarter of 2002, the Advisory Council reviewed Tennessee law as it relates to the "intoxication defense" for employers who have and those who do not have a certified drug-free workplace. In addition, it reviewed the laws of other jurisdictions to determine how other states handle the issue of payment of medical expenses when the employee's injury was caused by intoxication.

The Advisory Council was provided a summary by its Executive Director of how this issue is addressed by other states in the Southeast. The information revealed Tennessee is one of 17 states that are members of the Southern Association of Workers Compensation Administrators (SAWCA). Of the 17 SAWCA states, only seven (7) have enacted a drug-free workplace statute. Each state handles the issues of payment of compensation, burden of proof and payment of medical expenses differently. Of the seven (7), only Florida and Louisiana provide for payment of medical expenses when the employee tests positive for drugs/alcohol. Florida requires the employer to pay all authorized treatment provided prior to denial of benefits and reasonable notice of denial must be made to the health care provider that gives a date certain for the termination of benefits. In

Louisiana, if emergency care is provided to an employee who is later presumed or found to be intoxicated, the employer is required to pay for the reasonable care provided to the employee until stabilization and discharge from an acute care facility.

The state of Maryland does not have a drug-free workplace statute, but its workers' compensation law provides if the injury is solely caused by the effects of drugs or intoxication the employee is not entitled to ANY benefits. However, if the injury was primarily caused by intoxication the employee loses indemnity benefits but not the medical benefits. New Mexico reduces compensation by 10% if the intoxication or drug use is the contributing not sole cause of the injury.

A representative of Vanderbilt University appeared at the December, 2002 meeting of the Advisory Council and addressed its interest in the proposal introduced during the 2002 legislative session. He informed the Advisory Council that Vanderbilt is continuing to study and track the issue to determine how it is impacting the recovery of its medical costs. He indicated Vanderbilt has determined it is not a black and white issue but one that merits further study and that it is the intent of Vanderbilt to continue to develop data that it will share with the Advisory Council.

The Advisory Council unanimously agreed that while this issue bears further study and consideration it should recommend to the General Assembly that it not consider any legislation regarding the issue.

## **B. Tennessee Workers' Compensation Data**

As indicated previously in this report, the Advisory Council is fulfilling its statutory responsibility to develop information, evaluations and statistical reports concerning the impacts of the workers' compensation reforms by including a study of the Tennessee workers' compensation system based on the data obtained from the Statistical Data Form filed at the conclusion of a

workers' compensation claim. For ease in publishing these data separately from the Annual Report, the statistical analysis of data from calendar year 2002, and trends for calendar years 2000, 2001 and 2002 are contained in "Exhibit B", attached hereto.

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## CONCLUSION

The Workers' Compensation Advisory Council met on five (5) occasions in calendar year 2002. The meetings ranged in length from three (3) hours to eight (8) hours. This Annual Report is intended to give a synopsis of the topics considered during the year as well as to provide a continuing picture of Tennessee workers' compensation statistics. The Advisory Council appreciates the opportunity to be of service to the Governor and the General Assembly as well as the employees and employers of the great State of Tennessee.

Respectfully submitted on behalf of the  
Workers' Compensation Advisory Council  
on the    day of August, 2003:



Steve Adams, State Treasurer  
Chair

## APPENDIX A

### WORKERS' COMPENSATION ADVISORY COUNCIL Members and Ex-Officio Members

#### Members

| Name | Affiliation | Address | Status |
|------|-------------|---------|--------|
|------|-------------|---------|--------|

|             |                               |                                                        |       |
|-------------|-------------------------------|--------------------------------------------------------|-------|
| Steve Adams | Treasurer, State of Tennessee | First Floor, State Capitol<br>Nashville, TN 37243-0225 | Chair |
|-------------|-------------------------------|--------------------------------------------------------|-------|

#### Employer Representatives

|               |                                     |                                           |               |
|---------------|-------------------------------------|-------------------------------------------|---------------|
| Neil Nevins   | Tennessee Restaurant Association    | 1224A Lakeview Dr.<br>Franklin, TN 37067  | Voting Member |
| Bob Pitts     | Associated Builders and Contractors | 1604 Elm Hill Pike<br>Nashville, TN 37210 | Voting Member |
| Steven Turner | Turner Dairies, Inc.                | 2040 Madison Avenue<br>Memphis, TN 38104  | Voting Member |

#### Employee Representatives

|                  |                                           |                                                        |               |
|------------------|-------------------------------------------|--------------------------------------------------------|---------------|
| Jack A. Gatlin   |                                           | 365 Blankenship Road<br>Covington, TN 38019            | Voting Member |
| Dave Hickey      | OVSS-LECET                                | 25 Century Blvd.<br>Nashville, TN Suite 305<br>37214   | Voting Member |
| Othal Smith, Jr. | International Brotherhood of Boilermakers | 357 Riverside Drive<br>Suite 150<br>Franklin, TN 37064 | Voting Member |

#### Local Government Representative

|          |                                |                                                                  |                   |
|----------|--------------------------------|------------------------------------------------------------------|-------------------|
| Bob Kirk | City of Dyersburg - Councilman | 425 W. Court Street<br>P.O. Box 1358<br>Dyersburg, TN 38205-1358 | Non-voting Member |
|----------|--------------------------------|------------------------------------------------------------------|-------------------|

#### Insurance Representative

|            |                                   |                                                |                   |
|------------|-----------------------------------|------------------------------------------------|-------------------|
| Jerry Mayo | Insurance Corporation of Hannover | 9005 Overlook Boulevard<br>Brentwood, TN 37027 | Non-voting Member |
|------------|-----------------------------------|------------------------------------------------|-------------------|

#### Health Care Representative

|                           |  |                                                |                   |
|---------------------------|--|------------------------------------------------|-------------------|
| Claiborne Christian, M.D. |  | 221 W. Paris Street<br>Huntingdon, TN<br>38344 | Non-voting Member |
|---------------------------|--|------------------------------------------------|-------------------|

## Attorney Representatives

|                              |                                       |                                                                                              |                   |
|------------------------------|---------------------------------------|----------------------------------------------------------------------------------------------|-------------------|
| Katherine D. (Kitty) Boyte   | Tennessee Defense Lawyers Association | Ruth, Howard, Tate & Sowell<br>150 Second Avenue<br>Suite 201<br>Nashville, TN 37201         | Non-voting Member |
| Jacqueline B. Dixon, Esquire | Tennessee Bar Association             | Hollins, Wagster & Yarbrough, P.C.<br>424 Church Street<br>22nd Floor<br>Nashville, TN 37219 | Non-voting Member |
| J. Anthony Farmer, Esquire   | Tennessee Trial Lawyers Association   | Farmer & Ferraris<br>6130 Lonas Drive<br>Knoxville, TN 37909-3233                            | Non-voting Member |

## Ex Officio Members

|                  |                                                 |                                                                                           |                   |
|------------------|-------------------------------------------------|-------------------------------------------------------------------------------------------|-------------------|
| Joe Haynes       | State Senator                                   | Room 5, Legislative Plaza<br>Nashville, TN 37243-0220                                     | Ex-Officio Member |
| Jere Hargrove    | State Representative                            | Room 34, Legislative Plaza<br>Nashville, TN 37243-4156                                    | Ex-Officio Member |
| James G. Neeley  | Commissioner of Labor and Workforce Development | 710 James Robertson Pkwy<br>Andrew Johnson Tower<br>8th Floor<br>Nashville, TN 37243-0655 | Ex-Officio Member |
| Paula A. Flowers | Commissioner of Commerce and Insurance          | 500 James Robertson Pkwy<br>Davy Crocket Tower<br>Suite 500<br>Nashville, TN 37243-0565   | Ex-Officio Member |

## **APPENDIX B**

### **TENNESSEE WORKERS' COMPENSATION DATA CALENDAR YEAR 2002**

[Full Report Follows]

## STATISTICAL REPORT: TENNESSEE WORKERS' COMPENSATION DATA - 2002

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|-------------------------------------------------------------|----|
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## **STATISTICAL REPORT: TENNESSEE WORKERS' COMPENSATION DATA CALENDAR YEAR 2002**

### **INTRODUCTION**

In 2002, the Workers' Compensation Advisory Council published the first ever workers' compensation statistical report. That report included data and statistics related to workers' compensation cases concluded in calendar years 2000 and 2001. This statistical report contains data from calendar year 2002. For the first time, the report also contains trend information as data now exists for three consecutive years.

This statistical report is possible because the General Assembly, in 1998, enacted *Tennessee Code Annotated* § 50-6-244 which established a method by which workers' compensation data specific to each Tennessee claim is to be reported to the Department of Labor and Workforce Development (hereinafter, "Department"). The statute requires the parties to complete and file a statistical data form at the conclusion of a case, contemporaneously with the final order or if the settlement is approved by the Department at the time the settlement is submitted for approval.

After the statistical data forms are received by the Department, the data from the individual forms are entered into the integrated workers' compensation computer system. The Department provided staff of the Advisory Council with access to the database. It is from this database that the following statistics were developed.<sup>16</sup> The number of cases will appear to vary from chart to chart. This is because the statewide figures reported are calculated with the data available in the Department's database, which is dependant on the degree SD-1 forms are filled out. In other words, all forms sent in are captured, but not all forms are completely filled out.

As has been noted in the prior published report, a working knowledge of the Tennessee workers' compensation system is necessary to the understanding of the statistics contained herein.

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<sup>16</sup> Without access to the Department's database, this project could not have been completed. The Advisory Council staff thanks the Department for its cooperation..

Therefore, for those who are unfamiliar with the Tennessee system, a summary is provided in Appendix 3. The summary is not intended to be a complete description of the Tennessee workers' compensation system, but is designed to give an explanation of those portions of the workers' compensation law that are necessary to an understanding of the reported statistics and their relevance. The summary provided is applicable only to those cases in which there is no dispute as to whether the employee was injured in the course and scope of employment. For a more detailed explanation of the Tennessee workers' compensation law, the reader is urged to review *Tennessee Code Annotated* §50-6-101 *et seq.*

The following is the compilation of statistics from statistical data forms received by the Department for claims/cases concluded in calendar year 2002. This report does not purport to analyze the data. Its primary function is to provide a snapshot of Tennessee workers' compensation cases closed in 2002. However simple calculations were performed to test for statistically significant differences between judicial districts. A statistically significant difference between judicial districts for a given variable means the probability of getting the results are so rare that their occurrence is due to non-chance factors. A statement that differences between districts are significant can also mean that the variance within individual judicial districts is less than the variance between the judicial districts. Any analysis or specific study of the data will be provided in separate reports as requested by the Workers' Compensation Advisory Council members or the General Assembly.

This report also includes data from cases concluded in calendar years 2000 and 2001, as reported in last year's annual report. For the first time, data from cases concluded over three years is available from the Department; therefore, the report contains three year trend data. This ability to report trends is the biggest change over previous reports. Summary data from 2000 to 2002 is available in Appendix 1 and bar graphs representing the trend data in Appendix 2 of this report.

## **METHODS**

Pursuant to various Tennessee statutes, participants in the Tennessee workers' compensation system are required to send certain reports to the Tennessee Department of Labor and Workforce Development (hereinafter Department). One report, the "Employer's First Report of Work Injury or Illness" (hereinafter First Report or C-20), is the document that initiates a claim file within the Department for a reportable workers' compensation claim. This form is required to be completed by the employer for every work-related injury that results in medical care or lost time from work. One of the final reports received by the Department is the "Statistical Data Form" (hereinafter SD-1). It is the closing document for a claim. The SD-1 form is filed by the attorney representing the employer/insurance carrier with the clerk of the court in which a claim is filed or is settled and the clerk then transmits the completed SD-1 form to the Department. For settlement agreements approved by the Department, the SD-1 form is submitted to the Department at the time of the approval.

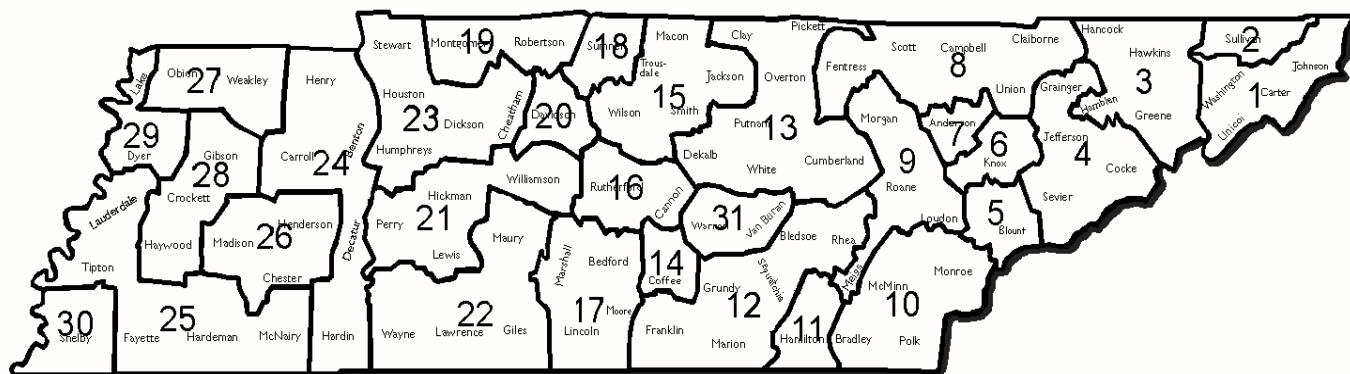
The Department operates an integrated computer system which is referred to as the "Workers' Compensation Computer System" (hereinafter WCS). It is into this database that the information from the First Report and the SD-1 forms are entered. The Department has given the staff for the Workers' Compensation Advisory Council access to the WCS.

On or before the tenth day of each calendar month the court clerks are required to send all filed SD-1 forms received in the preceding calendar month to the administrator of the Workers' Compensation Division. Therefore, to assure sufficient time had elapsed from December 31, 2002 to allow the December SD-1 forms to be received by the Department from the court clerks and the data entered into the WCS, Advisory Council staff determined to wait until the middle of March to begin the query of the WCS.

Advisory Council staff, with the help of the Department, queried the WCS on March 14, 2003 for closed case data from calendar year 2002, with injury dates on or after August 1, 1992, the date

on which the 1992 Workers' Compensation Reform Act began to apply to work-related injuries. Data were retrieved from the First Report forms and, to a larger extent, from the SD-1 forms. A total of 9,877 cases concluding in calendar year 2002 were collected. This data set should not be considered a sample. Rather, it is the entire population of cases that concluded in the time frames specified and for which a SD-1 form was filed with the Department.

To be able to discern the importance of the various tables and figures that follow, the reader must understand Tennessee is made up of 31 Judicial Districts. The judges and chancellors of each District hear workers' compensation cases in all the counties that comprise the individual District. There are eight Judicial Districts that have only one county. The other twenty-three vary in the number of counties that comprise the District. To assist the reader in determining the counties in each Judicial District the following is a map of Tennessee displaying the 31 Judicial Districts and the counties in each.



## NUMBER OF CASES

Table 1 lists the number of cases per judicial district and county that were closed in calendar year 2002. The table contains: the number of SD-1 forms received by the Department of Labor and Workforce Development (the Department); the number of workers' compensation cases reported as closed in 2002 by the various county clerks to the Administrative Office of the Courts (AOC); and a percentage comparison between the number of workers' compensation cases reported as closed by the AOC and the number of SD-1 forms received by the Department. Each court clerk is required to send a monthly closing report to the AOC that lists the number and type of cases closed during the preceding month.<sup>17</sup>

It is important to note that a workers' compensation claim can be settled between the parties and the settlement approved by the Department without the parties ever filing a complaint in a court. These particular cases will not be included in the AOC closed workers' compensation case data as the court will never have had the case. As a result, the percentage comparison of SD-1 forms received to the number of AOC closed workers' compensation cases will be somewhat less than that which is reported in Table 1.

One of the ways in which the data from the SD-1 forms is analyzed is to identify the county in which the claim/case was concluded and to assign the data to the appropriate judicial district (JD). Thus, the reader must be aware that for data contained in Table 1 and in other parts of this statistical report to be divided into judicial districts, it is necessary for the SD-1 form to contain the name of the county in which the claim was concluded and the SD-1 form filed. However, many SD-1 forms submitted and filed by the attorneys do not contain this information. As a result, the data related to these specific SD-1 forms are reported under the designation "JD Not Given". For 2,847 cases (29%), the county in which the case was concluded is not identifiable.

Since data has been received from all judicial districts, it can be assumed the data throughout

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<sup>17</sup> The AOC provided staff with this information for calendar year 2002 and staff deeply appreciates their assistance and cooperation.

this report is representative of the entire state. However, when comparing the number of SD-1 forms with the number of cases concluded in 2002 according to the AOC, 27% of cases concluded do not have SD-1 forms. It is not known whether there is something specific about the 27% of cases without SD-1 forms that is unique, making the statewide figures not necessarily generalizable. For example, the cases where forms were not filed could all be a specific conclusion type (such as settlement - no complaint filed); they all could be from the same attorney(s); or any number of possibilities. For purposes of reporting statewide data in this statistical report, it is assumed the reasons for unfilled SD-1 forms are random. However, this is an assumption that cannot be tested. The percentage of SD-1 forms filed compared to the number of cases concluded by the AOC decreased (86% in 2000, 76% in 2001 and 73% in 2002)

**Table 1: Workers' Compensation Cases Reported as Closed in Calendar Year 2002**

| Judicial District | County |            | Frequency | AOC  | Percent | Judicial District | County    |            | Frequency | AOC   | Percent |
|-------------------|--------|------------|-----------|------|---------|-------------------|-----------|------------|-----------|-------|---------|
| 1                 | 10     | Carter     | 23        | 44   | 52.3%   | 16                | 8         | Cannon     | 2         | 22    | 9.1%    |
|                   | 46     | Johnson    | 3         | 7    | 42.9%   |                   | 75        | Rutherford | 401       | 591   | 67.9%   |
|                   | 86     | Unicoi     | 8         | 13   | 61.5%   |                   | Total     |            | 403       | 613   | 65.7%   |
|                   | 90     | Washington | 110       | 144  | 76.4%   | 17                | 2         | Bedford    | 34        | 90    | 37.8%   |
|                   | Total  |            | 144       | 208  | 69.2%   |                   | 52        | Lincoln    | 27        | 49    | 55.1%   |
| 2                 | 82     | Sullivan   | 96        | 135  | 71.1%   |                   | 57        | Marshall   | 16        | 79    | 20.3%   |
|                   | Total  |            | 96        | 135  | 71.1%   |                   | 62        | Moore      | 6         | 7     | 85.7%   |
| 3                 | 30     | Greene     | 68        | 123  | 55.3%   |                   | Total     |            | 83        | 225   | 36.9%   |
|                   | 32     | Hancock    | 47        | 140  | 33.6%   | 18                | 83        | Sumner     | 106       | 235   | 45.1%   |
|                   | 34     | Hamblen    | 1         | 2    | 50.0%   |                   | Total     |            | 106       | 235   | 45.1%   |
|                   | 37     | Hawkins    | 45        | 81   | 55.6%   | 19                | 61        | Montgomery | 103       | 224   | 46.0%   |
|                   | Total  |            | 161       | 346  | 46.5%   |                   | 74        | Robertson  | 56        | 104   | 53.8%   |
| 4                 | 15     | Cocke      | 41        | 59   | 69.5%   |                   | Total     |            | 159       | 328   | 48.5%   |
|                   | 29     | Grainger   | 7         | 19   | 36.8%   | 20                | 19        | Davidson   | 1687      | 3060  | 55.1%   |
|                   | 45     | Jefferson  | 21        | 75   | 28.0%   |                   | Total     |            | 1687      | 3060  | 55.1%   |
|                   | 78     | Sevier     | 76        | 120  | 63.3%   | 21                | 41        | Hickman    | 3         | 15    | 20.0%   |
|                   | Total  |            | 145       | 273  | 53.1%   |                   | 51        | Lewis      | 5         | 8     | 62.5%   |
| 5                 | 5      | Blount     | 86        | 134  | 64.2%   |                   | 68        | Perry      | 11        | 17    | 64.7%   |
|                   | Total  |            | 86        | 134  | 64.2%   |                   | 94        | Williamson | 31        | 95    | 32.6%   |
| 6                 | 47     | Knox       | 547       | 902  | 60.6%   |                   | Total     |            | 50        | 135   | 37.0%   |
|                   | Total  |            | 547       | 902  | 60.6%   | 22                | 28        | Giles      | 33        | 56    | 58.9%   |
| 7                 | 1      | Anderson   | 153       | 274  | 55.8%   |                   | 50        | Lawrence   | 16        | 68    | 23.5%   |
|                   | Total  |            | 153       | 274  | 55.8%   |                   | 58        | Maury      | 99        | 209   | 47.4%   |
| 8                 | 7      | Campbell   | 57        | 105  | 54.3%   |                   | 91        | Wayne      | 7         | 22    | 31.8%   |
|                   | 13     | Claiborne  | 21        | 38   | 55.3%   |                   | Total     |            | 155       | 355   | 43.7%   |
|                   | 25     | Fentress   | 3         | 35   | 8.6%    | 23                | 11        | Cheatham   | 10        | 34    | 29.4%   |
|                   | 76     | Scott      | 54        | 80   | 67.5%   |                   | 22        | Dickson    | 13        | 67    | 19.4%   |
|                   | 87     | Union      | 4         | 24   | 16.7%   |                   | 42        | Houston    | 6         | 9     | 66.7%   |
|                   | Total  |            | 139       | 282  | 49.3%   |                   | 43        | Humphreys  | 9         | 29    | 31.0%   |
| 9                 | 53     | Loudon     | 41        | 62   | 66.1%   |                   | 81        | Stewart    | 4         | 15    | 26.7%   |
|                   | 59     | Meigs      | 2         | 3    | 66.7%   |                   | Total     |            | 42        | 154   | 27.3%   |
|                   | 63     | Morgan     | 9         | 25   | 36.0%   | 24                | 3         | Benton     | 24        | 57    | 42.1%   |
|                   | 73     | Roane      | 82        | 130  | 63.1%   |                   | 9         | Carroll    | 60        | 100   | 60.0%   |
|                   | Total  |            | 134       | 220  | 60.9%   |                   | 20        | Decatur    | 1         | 18    | 5.6%    |
| 10                | 6      | Bradley    | 111       | 180  | 61.7%   |                   | 36        | Hardin     | 30        | 51    | 58.8%   |
|                   | 64     | McMinn     | 47        | 72   | 65.3%   |                   | 40        | Henry      | 59        | 99    | 59.6%   |
|                   | 60     | Monroe     | 62        | 112  | 55.4%   |                   | Total     |            | 174       | 325   | 53.5%   |
|                   | 70     | Polk       | 7         | 11   | 63.6%   | 25                | 24        | Fayette    | 7         | 10    | 70.0%   |
|                   | Total  |            | 227       | 375  | 60.5%   |                   | 35        | Hardeman   | 28        | 62    | 45.2%   |
| 11                | 33     | Hamilton   | 698       | 1202 | 58.1%   |                   | 49        | Lauderdale | 15        | 71    | 21.1%   |
|                   | Total  |            | 698       | 1202 | 58.1%   |                   | 65        | McNairy    | 7         | 32    | 21.9%   |
| 12                | 4      | Bledsoe    | 0         | 9    | 0.0%    |                   | 84        | Tipton     | 12        | 38    | 31.6%   |
|                   | 26     | Franklin   | 61        | 129  | 47.3%   |                   | Total     |            | 69        | 213   | 32.4%   |
|                   | 31     | Grundy     | 7         | 17   | 41.2%   | 26                | 12        | Chester    | 5         | 24    | 20.8%   |
|                   | 56     | Marion     | 16        | 46   | 34.8%   |                   | 39        | Henderson  | 8         | 74    | 10.8%   |
|                   | 72     | Rhea       | 36        | 71   | 50.7%   |                   | 55        | Madison    | 259       | 561   | 46.2%   |
|                   | 77     | Sequatchie | 12        | 14   | 85.7%   | 27                | Total     |            | 272       | 659   | 41.3%   |
|                   | Total  |            | 132       | 286  | 46.2%   |                   | 66        | Obion      | 122       | 314   | 38.9%   |
| 13                | 14     | Clay       | 0         | 6    | 0.0%    |                   | 92        | Weakley    | 31        | 81    | 38.3%   |
|                   | 18     | Cumberland | 20        | 64   | 31.3%   |                   | Total     |            | 153       | 395   | 38.7%   |
|                   | 21     | DeKalb     | 25        | 44   | 56.8%   | 28                | 17        | Crockett   | 6         | 14    | 42.9%   |
|                   | 67     | Overton    | 3         | 45   | 6.7%    |                   | 27        | Gibson     | 54        | 98    | 55.1%   |
|                   | 69     | Pickett    | 0         | 4    | 0.0%    |                   | 38        | Haywood    | 23        | 30    | 76.7%   |
|                   | 71     | Putnam     | 39        | 239  | 16.3%   | 29                | Total     |            | 83        | 142   | 58.5%   |
|                   | 93     | White      | 9         | 48   | 18.8%   |                   | 23        | Dyer       | 59        | 186   | 31.7%   |
|                   | Total  |            | 96        | 450  | 21.3%   |                   | 48        | Lake       | 4         | 13    | 30.8%   |
| 14                | 16     | Coffee     | 64        | 157  | 40.8%   | 30                | Total     |            | 63        | 199   | 31.7%   |
|                   | Total  |            | 64        | 157  | 40.8%   |                   | 79        | Shelby     | 525       | 676   | 77.7%   |
| 15                | 44     | Jackson    | 0         | 6    | 0.0%    | 31                | Total     |            | 525       | 676   | 77.7%   |
|                   | 56     | Macon      | 20        | 65   | 30.8%   |                   | 88        | Van Buren  | 0         | 3     | 0.0%    |
|                   | 80     | Smith      | 9         | 56   | 16.1%   |                   | 89        | Warren     | 66        | 107   | 61.7%   |
|                   | 85     | Trousdale  | 0         | 14   | 0.0%    | JD Not Given      | Total     |            | 66        | 110   | 60.0%   |
|                   | 95     | Wilson     | 89        | 249  | 35.7%   |                   |           |            | 2847      |       |         |
|                   | Total  |            | 118       | 390  | 30.3%   |                   | Statewide |            | 9877      | 13458 | 73.2%   |

## CONCLUSION TYPES

Workers' compensation cases may be concluded four different ways in Tennessee:

1. Trial [A complaint is filed, the case does not settle and the case is tried before a judge who determines the outcome of the case. These cases are reported to the AOC by the clerks.]
2. Settlement - Complaint Filed [A complaint is filed, but the parties reach a settlement agreement prior to trial. Such a settlement may be approved by the court or the Department of Labor and Workforce Development. If the Department approves the settlement, an order of dismissal must be filed in the court in which the complaint was filed. These cases would then be reported to the AOC.]
3. Joint Petition Settlement [A complaint is not filed. However, the parties reach an agreed settlement and the agreement is presented to a court for approval. The court requires a petition and an order to be filed. These cases are reported to the AOC.]
4. Settlement Approved by Department of Labor and Workforce Development [The Department has the authority to approve settlements reached in cases in which a complaint has been filed and in cases in which no complaint has been filed. If no complaint has been filed, then this closing information is not forwarded to the AOC. If a complaint has been filed, then the parties must file an Order of Nonsuit or take other actions to assure the case is dismissed by the court and taken off the court's docket. In these cases, the conclusion will be reported to the AOC.]

Table 2 lists the numbers and percentages of each type of conclusion for the entire state for the past three calendar years, 2000-2003. In 2002, 2.5% of the cases were resolved by trial. Settlements after a complaint was filed accounted for 24.5% of the cases and joint petition settlements equaled 31.6%. The Department approved settlements in 38.4% of the cases. In 3.1% of the SD-1 forms no type of conclusion is indicated.

Notable changes from 2001 data are the large increase in the percentage of settlements that

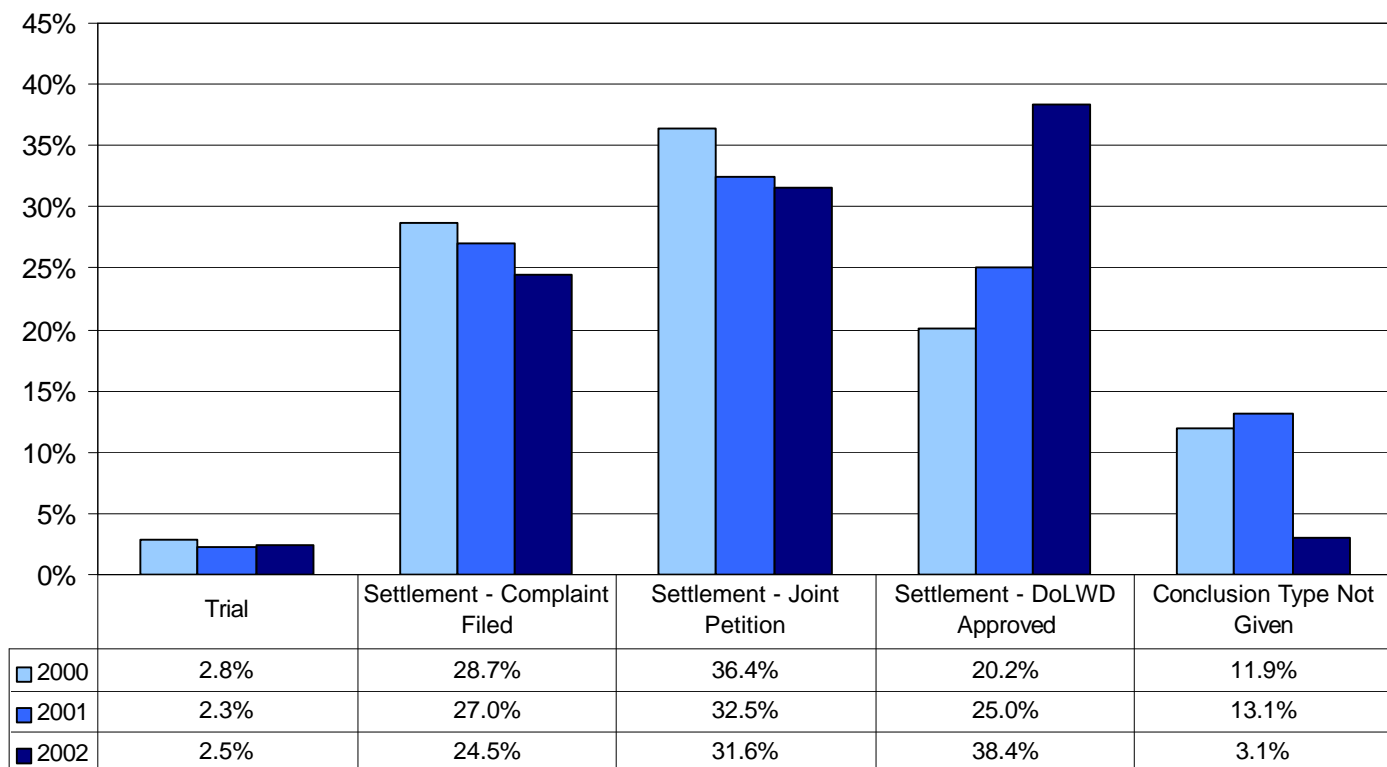
were approved by the Department (from 25% to 38%) and the corresponding steady decline in settlements approved by a court. Also, in 2002 there was a 10% decrease in the number of SD-1 forms that did not report the type of conclusion from the data in 2001 (13% to 3%).

The conclusion type and percentage data from Table 2 are represented graphically in Figure 2. Table 3 lists the number of each type of conclusion by judicial district for 2002 cases.

**Table 2: Types of Conclusions**

|                                     | CY 2000   |         | CY 2001   |         | CY 2002   |         |
|-------------------------------------|-----------|---------|-----------|---------|-----------|---------|
|                                     | Frequency | Percent | Frequency | Percent | Frequency | Percent |
| <b>Trial</b>                        | 321       | 2.8%    | 247       | 2.3%    | 243       | 2.5%    |
| <b>Settlement - Complaint Filed</b> | 3281      | 28.7%   | 2868      | 27.0%   | 2417      | 24.5%   |
| <b>Settlement - Joint Petition</b>  | 4163      | 36.4%   | 3443      | 32.5%   | 3120      | 31.6%   |
| <b>Settlement - DoLWD Approved</b>  | 2303      | 20.2%   | 2655      | 25.0%   | 3793      | 38.4%   |
| <b>Conclusion Type Not Given</b>    | 1357      | 11.9%   | 1392      | 13.1%   | 304       | 3.1%    |
| <b>Total</b>                        | 11425     |         | 10605     |         | 9877      |         |

**Figure 1: Types of Conclusions**



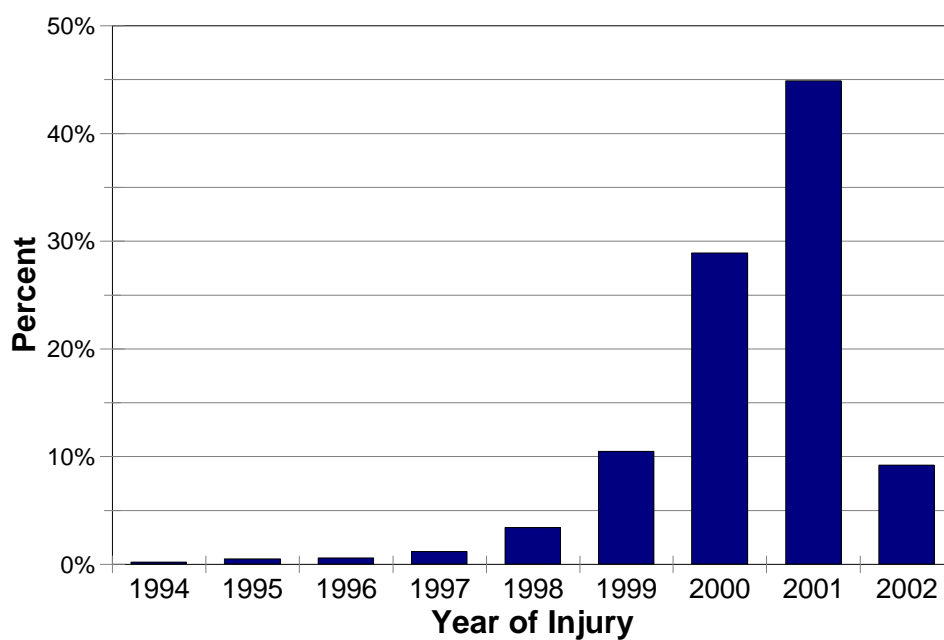
**Table 3: Calendar Year - 2002: Types of Conclusions**

| Judicial District | Trial | Settlement - Complaint Filed | Settlement - Joint Petition | Settlement - DoLWD Approved | Conclusion Type Not Given | Total |
|-------------------|-------|------------------------------|-----------------------------|-----------------------------|---------------------------|-------|
| 1                 | 2     | 32                           | 23                          | 82                          | 5                         | 144   |
| 2                 | 3     | 15                           | 11                          | 64                          | 3                         | 96    |
| 3                 | 4     | 43                           | 47                          | 62                          | 5                         | 161   |
| 4                 | 6     | 45                           | 13                          | 75                          | 6                         | 145   |
| 5                 | 5     | 34                           | 16                          | 28                          | 3                         | 86    |
| 6                 | 13    | 158                          | 253                         | 108                         | 15                        | 547   |
| 7                 | 9     | 106                          | 29                          | 8                           | 1                         | 153   |
| 8                 | 8     | 94                           | 8                           | 25                          | 4                         | 139   |
| 9                 | 9     | 79                           | 13                          | 29                          | 4                         | 134   |
| 10                | 9     | 113                          | 76                          | 19                          | 10                        | 227   |
| 11                | 14    | 210                          | 400                         | 53                          | 21                        | 698   |
| 12                | 6     | 70                           | 21                          | 28                          | 7                         | 132   |
| 13                | 3     | 42                           | 29                          | 17                          | 5                         | 96    |
| 14                |       | 44                           | 16                          | 3                           | 1                         | 64    |
| 15                | 4     | 72                           | 10                          | 27                          | 5                         | 118   |
| 16                | 28    | 164                          | 186                         | 19                          | 6                         | 403   |
| 17                | 2     | 38                           | 29                          | 9                           | 5                         | 83    |
| 18                | 6     | 69                           | 12                          | 17                          | 2                         | 106   |
| 19                | 4     | 97                           | 31                          | 22                          | 5                         | 159   |
| 20                | 17    | 320                          | 1193                        | 92                          | 65                        | 1687  |
| 21                | 3     | 18                           | 12                          | 17                          | 0                         | 50    |
| 22                | 6     | 50                           | 54                          | 26                          | 19                        | 155   |
| 23                |       | 15                           | 7                           | 19                          | 1                         | 42    |
| 24                | 20    | 67                           | 8                           | 73                          | 6                         | 174   |
| 25                |       | 15                           | 7                           | 46                          | 1                         | 69    |
| 26                | 5     | 85                           | 119                         | 55                          | 8                         | 272   |
| 27                | 30    | 65                           | 24                          | 23                          | 11                        | 153   |
| 28                | 6     | 39                           | 14                          | 22                          | 2                         | 83    |
| 29                | 4     | 23                           | 8                           | 28                          | 0                         | 63    |
| 30                | 9     | 89                           | 76                          | 334                         | 17                        | 525   |
| 31                | 4     | 35                           | 17                          | 6                           | 4                         | 66    |
| JD Not Given      | 4     | 71                           | 358                         | 2357                        | 57                        | 2847  |
| Statewide         | 243   | 2417                         | 3120                        | 3793                        | 304                       | 9877  |
| Percent           | 2.5%  | 24.5%                        | 31.6%                       | 38.4%                       | 3.1%                      |       |

## CASE LENGTH

Figure 2 displays the frequencies of cases closed in 2002 by the year of injury. 90% of the cases are closed within three years, 72% within two years and 32% within one year of the date of injury. These numbers are consistent with 2000 and 2001 data.

**Figure 2: Calendar Year - 2002: Frequencies of Cases Closed by Injury Year**



## DATE OF INJURY TO DATE OF CONCLUSION

The average number of weeks from the date of injury to the date of settlement approval or date of trial in 2002 is listed by judicial district as well as for all of Tennessee in Table 4. The mean number of weeks from injury to conclusion is 85.7 weeks and ranges from 73.5 weeks in Judicial District 26 to 129.0 weeks in Judicial District 5. Because of the increase in time from injury to MMI, the mean number of weeks from injury to conclusion increased from 83.8 weeks in 2000 to 85.7 weeks in 2002. Figure 3 displays the number of weeks from injury to conclusion by injury year and conclusion type. From 2000 to 2002, the time from injury to conclusion has increased by 40 weeks for trials, from 104 to 144 (from 2 years to over 2.5 years). Cases that are settled are taking longer to reach conclusion as well, but not at the rate that trials are. Settlements where a complaint has been filed are up from 97 weeks in 2000 to 113 weeks in 2002. Joint petition settlements are up from 52 weeks in 2000 to 69 weeks in 2002 and Department approved settlements are up from 64 weeks in 2000 to 79 weeks in 2002.

## DATE OF INJURY TO MAXIMUM MEDICAL IMPROVEMENT

Table 5 displays the average number of weeks from the date of injury to the date of maximum medical improvement (MMI). The mean number of weeks from the date of injury to the date of MMI for calendar year 2002 is 44.0 weeks. The data ranges from 37.8 weeks in Judicial District 26 to 74.9 weeks in Judicial District 9. The mean number of weeks from the date of injury to the date of MMI is increasing over time from 41.6 in 2000 to 44.0 in 2002.

Figure 4 displays date of injury to date of MMI data broken up by conclusion type and year of conclusion. For cases that go to trial, the time from injury to MMI is nearly 61 weeks, for settlements where a complaint has been filed, 51 weeks, for joint petition settlements, 43 weeks and for Department approved settlements, almost 42 weeks. For all conclusion types, the amount of time from injury to MMI is increasing from 2000 to 2002, 2.3% longer from 2000 to 2001 and 3.4% longer from 2001 to 2002.

## MAXIMUM MEDICAL IMPROVEMENT TO DATE OF CONCLUSION

Table 6 lists the average number of weeks from MMI to conclusion for each judicial district as well as for all of Tennessee for cases concluding in 2002. The mean number of weeks from MMI to conclusion is 38.7 weeks. The data ranges from 32.1 weeks in Judicial District 20 to 69.3 in Judicial District 5. The mean number of weeks from MMI to conclusion was virtually constant from 2000 to 2002, with a less than 1% increase from 2000 to 2001 and less than 1% decrease from 2001 to 2002. When broken up by conclusion type, however, three year trends are visible. Trials and Department approved settlements are taking longer from MMI to conclusion, while settlements where a complaint has been filed and joint petition settlements are concluding faster. In 2002, it took an average of 80 weeks for a case to go to trial after MMI had been reached. This means that on average injured workers go over a year and a half without receiving any compensation.<sup>18</sup> It is surprising that the number of weeks from MMI to trial is increasing for three reasons, the number of cases per year is going down, the utilization of Department approved settlements is increasing and TCA §50-6-225(f)(1) states that workers' compensation cases have priority over other cases on the docket.

Department approved settlements are also taking longer to conclude, from 33 weeks in 2000 to 36 weeks in 2002. This appears to be reasonable because of the increase in the number of settlements being approved by the Department as discussed previously. Figure 5 displays the mean number of weeks from MMI to conclusion broken up by injury year and conclusion type.

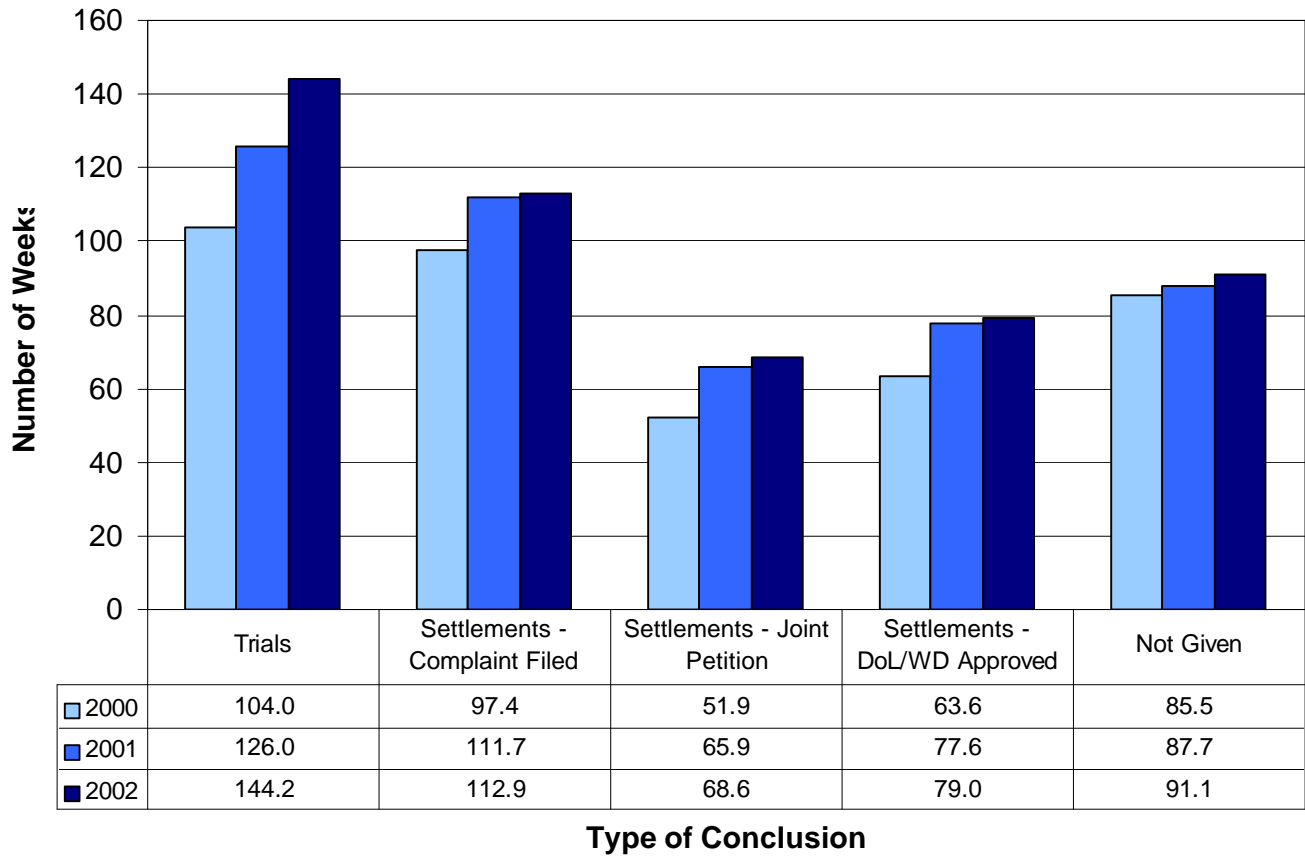
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<sup>18</sup>This is equivalent to a 20% PPD judgment to the body as a whole, which is what the average body as a whole return to work judgment/settlement is.

**Table 4: Calendar Year - 2002: Number of Weeks From Date of Injury to Date of Conclusion**

| <b>Judicial District</b> | <b>Frequency</b> | <b>Mean</b> | <b>Median</b> | <b>Std. Deviation</b> |
|--------------------------|------------------|-------------|---------------|-----------------------|
| 1                        | 144              | 98.2        | 86.2          | 57.0                  |
| 2                        | 95               | 110.8       | 98.1          | 72.3                  |
| 3                        | 160              | 98.0        | 87.7          | 64.2                  |
| 4                        | 144              | 107.6       | 92.2          | 65.2                  |
| 5                        | 86               | 129.0       | 123.0         | 81.9                  |
| 6                        | 544              | 91.0        | 76.4          | 68.3                  |
| 7                        | 147              | 108.2       | 96.9          | 67.8                  |
| 8                        | 139              | 112.1       | 88.9          | 82.2                  |
| 9                        | 132              | 115.7       | 95.2          | 73.0                  |
| 10                       | 226              | 106.5       | 93.1          | 71.6                  |
| 11                       | 698              | 93.0        | 78.9          | 65.4                  |
| 12                       | 130              | 106.8       | 94.7          | 60.4                  |
| 13                       | 96               | 99.4        | 80.6          | 55.1                  |
| 14                       | 63               | 103.4       | 99.3          | 52.7                  |
| 15                       | 118              | 96.1        | 85.7          | 55.9                  |
| 16                       | 401              | 94.2        | 81.6          | 55.7                  |
| 17                       | 82               | 93.1        | 82.4          | 61.1                  |
| 18                       | 106              | 109.4       | 95.9          | 66.2                  |
| 19                       | 159              | 115.1       | 91.9          | 78.2                  |
| 20                       | 1679             | 75.7        | 62.4          | 52.2                  |
| 21                       | 50               | 96.6        | 91.1          | 43.4                  |
| 22                       | 155              | 96.3        | 77.1          | 65.0                  |
| 23                       | 42               | 110.7       | 93.9          | 59.8                  |
| 24                       | 174              | 100.2       | 85.4          | 60.5                  |
| 25                       | 69               | 99.1        | 88.6          | 53.3                  |
| 26                       | 268              | 73.5        | 65.1          | 40.1                  |
| 27                       | 153              | 110.4       | 98.1          | 62.8                  |
| 28                       | 83               | 91.3        | 73.1          | 59.4                  |
| 29                       | 63               | 99.5        | 86.1          | 56.0                  |
| 30                       | 524              | 103.6       | 91.7          | 64.7                  |
| 31                       | 65               | 116.8       | 95.1          | 88.8                  |
|                          |                  |             |               |                       |
| Not Given                | 2831             | 65.4        | 54.9          | 43.8                  |
|                          |                  |             |               |                       |
| Statewide                | 9826             | 85.7        | 71.6          | 59.6                  |

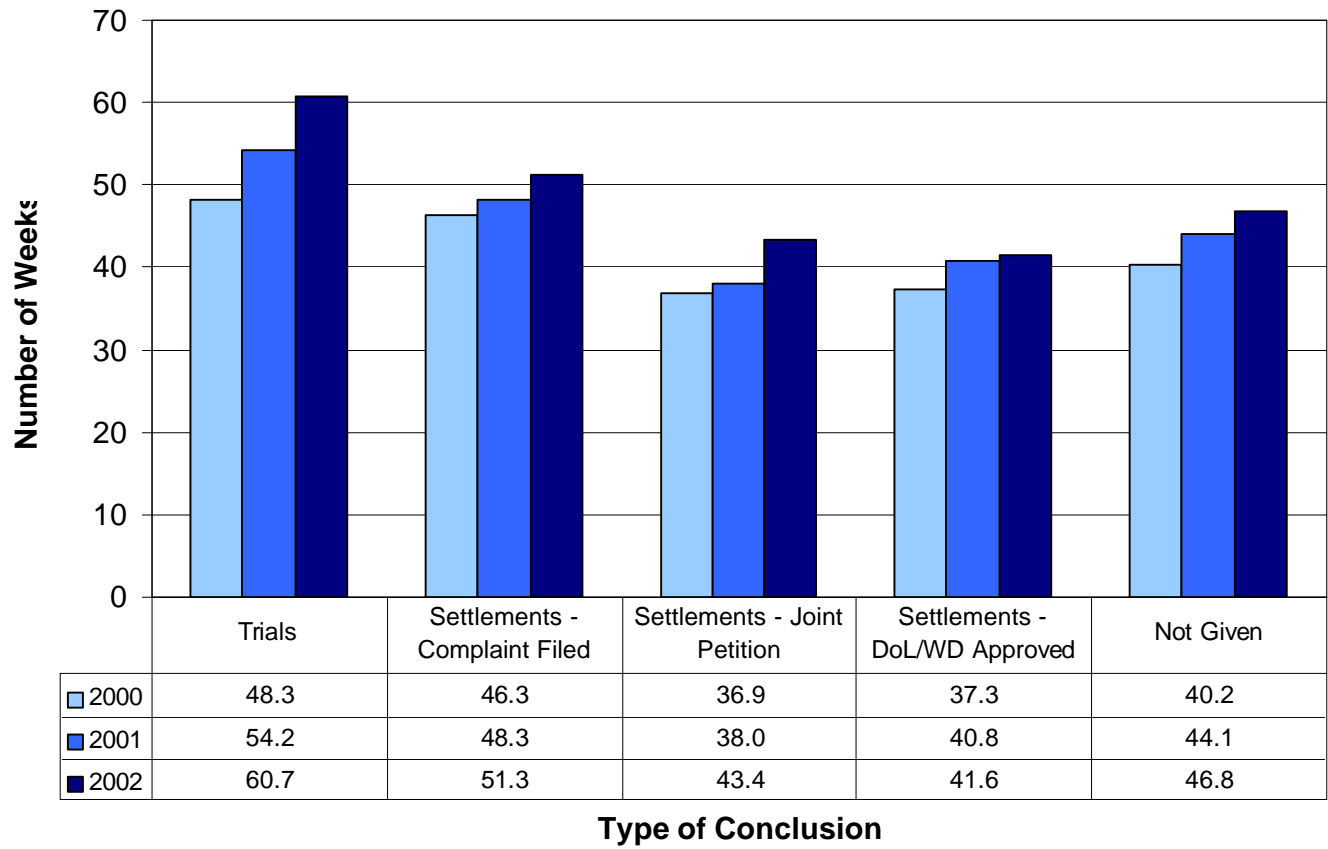
**Figure 3: Number of Weeks From Date of Injury to Date of Conclusion By Conclusion Type**



**Table 5: Calendar Year - 2002: Number of Weeks From Date of Injury to Maximum Medical Improvement**

| <b>Judicial District</b> | <b>Frequency</b> | <b>Mean</b> | <b>Median</b> | <b>Std. Deviation</b> |
|--------------------------|------------------|-------------|---------------|-----------------------|
| 1                        | 111              | 43.7        | 34.7          | 33.7                  |
| 2                        | 76               | 50.6        | 38.1          | 44.5                  |
| 3                        | 129              | 46.6        | 38.3          | 33.3                  |
| 4                        | 112              | 44.8        | 34.9          | 35.0                  |
| 5                        | 69               | 55.4        | 41.1          | 45.5                  |
| 6                        | 444              | 45.2        | 32.9          | 37.2                  |
| 7                        | 115              | 50.5        | 43.6          | 37.1                  |
| 8                        | 104              | 50.5        | 41.7          | 45.3                  |
| 9                        | 91               | 74.9        | 55.9          | 64.8                  |
| 10                       | 169              | 59.4        | 45.4          | 55.8                  |
| 11                       | 556              | 51.3        | 38.9          | 42.1                  |
| 12                       | 102              | 49.7        | 42.1          | 39.7                  |
| 13                       | 73               | 52.2        | 45.9          | 32.5                  |
| 14                       | 49               | 42.5        | 36.0          | 28.6                  |
| 15                       | 94               | 45.4        | 39.8          | 26.8                  |
| 16                       | 335              | 50.1        | 39.9          | 37.7                  |
| 17                       | 63               | 47.4        | 36.0          | 37.1                  |
| 18                       | 84               | 49.9        | 45.7          | 28.7                  |
| 19                       | 129              | 46.0        | 36.3          | 38.1                  |
| 20                       | 1357             | 42.2        | 32.0          | 35.2                  |
| 21                       | 43               | 55.5        | 39.7          | 48.5                  |
| 22                       | 119              | 58.6        | 41.1          | 52.3                  |
| 23                       | 29               | 48.4        | 38.7          | 35.5                  |
| 24                       | 154              | 43.3        | 34.1          | 33.1                  |
| 25                       | 67               | 43.4        | 36.0          | 38.0                  |
| 26                       | 232              | 37.8        | 30.9          | 32.3                  |
| 27                       | 111              | 52.7        | 39.9          | 45.7                  |
| 28                       | 70               | 44.1        | 29.6          | 43.3                  |
| 29                       | 57               | 44.8        | 34.6          | 32.7                  |
| 30                       | 451              | 42.8        | 29.4          | 41.6                  |
| 31                       | 50               | 56.7        | 42.4          | 49.0                  |
| JD Not Given             | 2498             | 37.2        | 29.8          | 28.6                  |
| Statewide                | 8143             | 44.0        | 33.9          | 36.9                  |

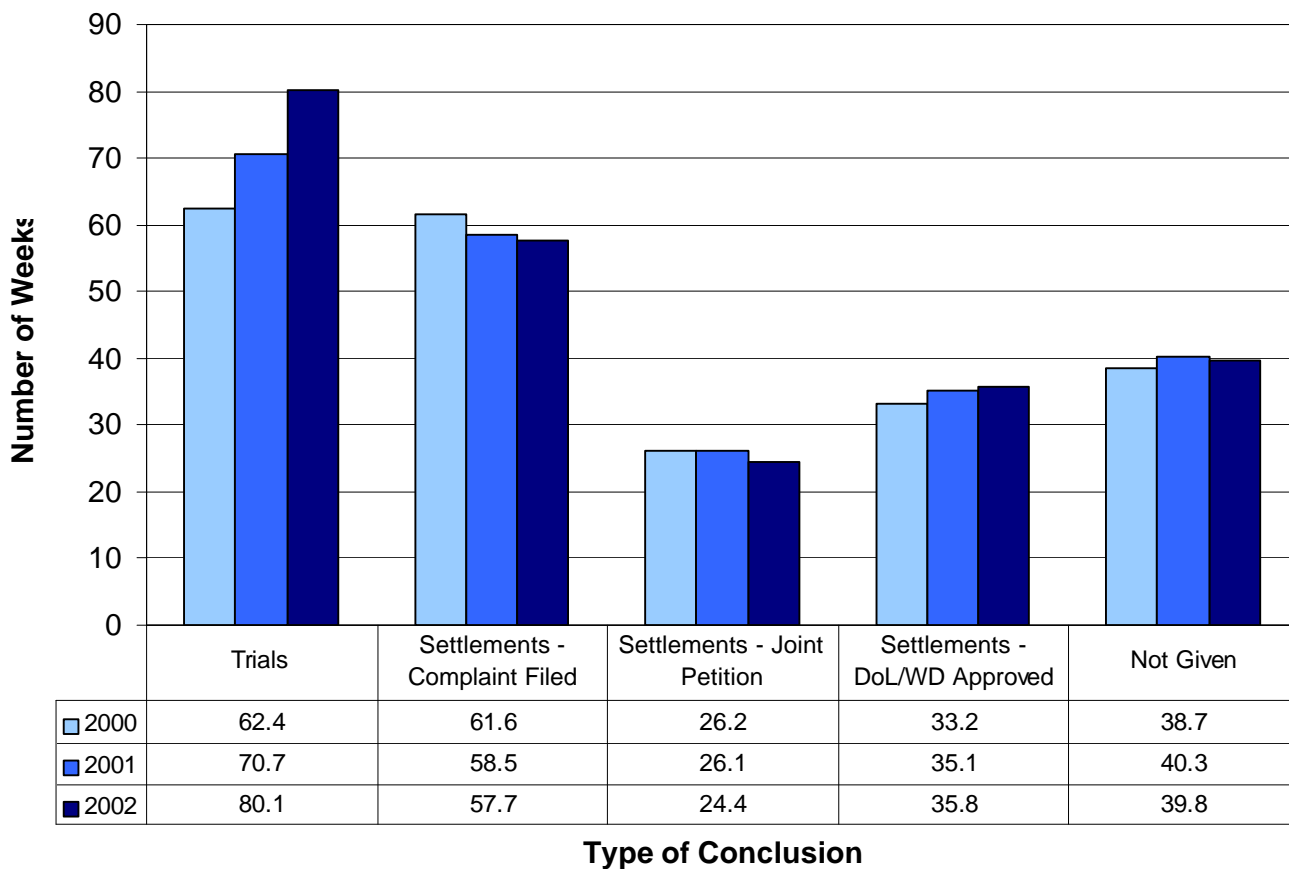
**Figure 4: Number of Weeks From Date of Injury to Maximum Medical Improvement by Conclusion Type**



**Table 6: Calendar Year - 2002: Number of Weeks From Maximum Medical Improvement to Date of Conclusion**

| <b>Judicial District</b> | <b>Frequency</b> | <b>Mean</b> | <b>Median</b> | <b>Std. Deviation</b> |
|--------------------------|------------------|-------------|---------------|-----------------------|
| 1                        | 113              | 50.0        | 40.4          | 42.7                  |
| 2                        | 78               | 53.1        | 42.1          | 42.3                  |
| 3                        | 131              | 46.5        | 34.1          | 40.3                  |
| 4                        | 115              | 62.1        | 45.1          | 56.5                  |
| 5                        | 69               | 69.3        | 44.9          | 58.4                  |
| 6                        | 444              | 38.6        | 22.4          | 45.1                  |
| 7                        | 115              | 50.1        | 37.3          | 40.8                  |
| 8                        | 106              | 55.3        | 37.6          | 56.3                  |
| 9                        | 93               | 47.0        | 44.3          | 32.1                  |
| 10                       | 172              | 42.6        | 28.4          | 42.1                  |
| 11                       | 558              | 36.5        | 24.9          | 36.7                  |
| 12                       | 104              | 52.4        | 36.9          | 47.1                  |
| 13                       | 73               | 47.2        | 32.1          | 52.0                  |
| 14                       | 49               | 55.0        | 42.0          | 55.4                  |
| 15                       | 95               | 52.2        | 41.9          | 48.7                  |
| 16                       | 336              | 39.9        | 27.1          | 36.3                  |
| 17                       | 63               | 46.9        | 36.3          | 49.4                  |
| 18                       | 85               | 53.7        | 37.3          | 55.5                  |
| 19                       | 129              | 60.1        | 42.9          | 52.2                  |
| 20                       | 1364             | 32.1        | 20.9          | 33.0                  |
| 21                       | 44               | 43.3        | 33.9          | 34.1                  |
| 22                       | 120              | 37.3        | 27.6          | 30.4                  |
| 23                       | 29               | 48.6        | 41.1          | 33.0                  |
| 24                       | 157              | 53.9        | 44.0          | 37.7                  |
| 25                       | 66               | 57.3        | 42.6          | 48.9                  |
| 26                       | 233              | 33.3        | 26.1          | 27.3                  |
| 27                       | 112              | 56.1        | 46.4          | 50.8                  |
| 28                       | 70               | 44.6        | 32.6          | 37.7                  |
| 29                       | 58               | 54.6        | 38.4          | 49.5                  |
| 30                       | 456              | 60.4        | 43.7          | 54.2                  |
| 31                       | 50               | 59.8        | 37.2          | 71.2                  |
|                          |                  |             |               |                       |
| JD Not Given             | 2514             | 27.4        | 18.6          | 26.1                  |
|                          |                  |             |               |                       |
| Statewide                | 8201             | 38.7        | 25.7          | 39.6                  |

**Figure 5: Number of Weeks From Maximum Medical Improvement to Date of Conclusion by Conclusion Type**



## DEMOGRAPHICS

### AVERAGE AGE

The mean age for workers involved in workers' compensation cases in Tennessee that were concluded in 2002 is 41.8 years and ranges from 38.5 years in Judicial Districts 26 and 31 to 44.6 years in Judicial District 9. Table 7 lists the average ages for all judicial districts as well as for the entire state. The average age of injured workers has slowly increased from 41.5 to 41.8 from 2000 to 2002, which is less than one-half percent of growth each year.

Figure 6 displays the distribution of ages for workers involved in Tennessee workers' compensation cases concluding in 2002. To limit the effects of potential errors in the data base, ages included in the analysis are limited to those over 14 years and less than 90 years.

### LEVEL OF EDUCATION

The education levels of injured workers in Tennessee for cases concluding in 2002 are displayed in Table 8. Down from 21% in 2000 and 2001, 19% of workers, have less than a high school education, and 57% have a high school education or equivalent. Nearly 24% have more than a high school education, up from 20% in 2000 and 2001. These numbers are similar to 2000 census data for Tennessee as well.

### WEEKLY COMPENSATION RATE

Table 9 lists the average weekly compensation rates for each judicial district as well as for the entire state. Mean compensation rates for cases concluding in 2002 range from \$275.94 in Judicial District 8 to \$429.37 a week in Judicial District 16, with a statewide mean of \$342.07. Differences between judicial districts are statistically significant.<sup>19</sup> Possible differences in wages between districts could be from industry mix and/or cost of living. Mean weekly compensation

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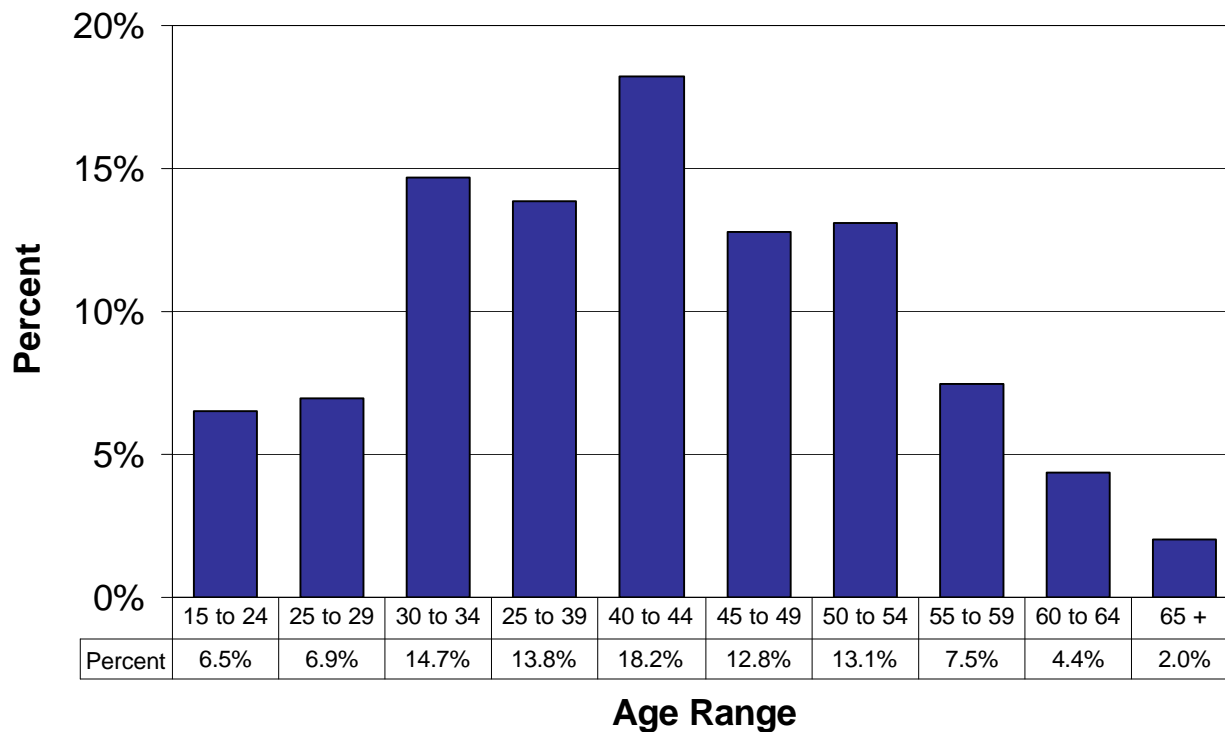
<sup>19</sup>  $p < .01$  Kruskal Wallis Test

rates have increased steadily from \$319.10 for 2000 cases to \$342.07 for 2002 cases, which is at a rate of less than 4% per year. Weekly compensation benefits are capped at 100% of the average weekly wage in Tennessee. For cases concluding in 2002, 14.4% of injured workers received benefits at the maximum compensation rate. The 14.4% at the maximum compensation rate is down from 15.0% in 2001 and 15.9% in 2000. The distribution of weekly compensation rates is displayed in Figure 7.

**Table 7: Calendar Year - 2002: Age at Date of Injury**

| <b>Judicial District</b> | <b>Frequency</b> | <b>Mean</b> | <b>Median</b> | <b>Std. Deviation</b> |
|--------------------------|------------------|-------------|---------------|-----------------------|
| 1                        | 92               | 39.7        | 39.5          | 9.6                   |
| 2                        | 65               | 43.0        | 44.0          | 12.1                  |
| 3                        | 103              | 40.0        | 39.0          | 11.6                  |
| 4                        | 91               | 42.5        | 41.0          | 11.9                  |
| 5                        | 51               | 40.3        | 42.0          | 10.4                  |
| 6                        | 354              | 42.7        | 41.0          | 11.4                  |
| 7                        | 92               | 42.3        | 45.0          | 10.9                  |
| 8                        | 100              | 40.4        | 39.0          | 11.4                  |
| 9                        | 74               | 44.5        | 45.5          | 11.0                  |
| 10                       | 143              | 42.0        | 41.0          | 11.2                  |
| 11                       | 450              | 42.3        | 42.0          | 11.2                  |
| 12                       | 91               | 40.8        | 41.0          | 11.2                  |
| 13                       | 61               | 42.4        | 43.0          | 11.6                  |
| 14                       | 44               | 42.1        | 41.0          | 11.2                  |
| 15                       | 70               | 41.3        | 42.0          | 13.0                  |
| 16                       | 277              | 40.9        | 40.0          | 9.5                   |
| 17                       | 50               | 42.2        | 43.0          | 10.9                  |
| 18                       | 66               | 39.7        | 39.0          | 10.7                  |
| 19                       | 104              | 42.4        | 42.0          | 10.7                  |
| 20                       | 1094             | 41.9        | 41.0          | 11.3                  |
| 21                       | 24               | 42.6        | 45.5          | 10.7                  |
| 22                       | 112              | 42.1        | 42.5          | 10.1                  |
| 23                       | 23               | 42.8        | 43.0          | 9.9                   |
| 24                       | 102              | 39.1        | 39.0          | 10.9                  |
| 25                       | 43               | 38.5        | 39.0          | 10.0                  |
| 26                       | 161              | 42.9        | 43.0          | 11.5                  |
| 27                       | 63               | 40.7        | 41.0          | 10.6                  |
| 28                       | 44               | 41.7        | 41.5          | 9.9                   |
| 29                       | 35               | 43.5        | 43.0          | 9.7                   |
| 30                       | 356              | 41.7        | 41.0          | 10.3                  |
| 31                       | 47               | 38.5        | 39.0          | 9.7                   |
| JD Not Given             | 1929             | 42.0        | 42.0          | 11.3                  |
| Statewide                | 6411             | 41.8        | 42.0          | 11.1                  |

**Figure 6: Calendar Year - 2002: Distribution - Age at Date of Injury**



**Table 8: Calendar Year - 2002: Employee's Education Level**

| Judicial District | Less Than High School |         | High School |         | More Than High School |         |
|-------------------|-----------------------|---------|-------------|---------|-----------------------|---------|
|                   | N                     | Percent | N           | Percent | N                     | Percent |
| 1                 | 28                    | 22.2%   | 75          | 59.5%   | 23                    | 18.3%   |
| 2                 | 19                    | 24.1%   | 37          | 46.8%   | 23                    | 29.1%   |
| 3                 | 30                    | 22.7%   | 76          | 57.6%   | 26                    | 19.7%   |
| 4                 | 32                    | 28.1%   | 47          | 41.2%   | 35                    | 30.7%   |
| 5                 | 15                    | 22.7%   | 32          | 48.5%   | 19                    | 28.8%   |
| 6                 | 67                    | 16.7%   | 240         | 59.9%   | 94                    | 23.4%   |
| 7                 | 16                    | 12.4%   | 80          | 62.0%   | 33                    | 25.6%   |
| 8                 | 33                    | 30.6%   | 60          | 55.6%   | 15                    | 13.9%   |
| 9                 | 18                    | 18.9%   | 53          | 55.8%   | 24                    | 25.3%   |
| 10                | 50                    | 28.2%   | 100         | 56.5%   | 27                    | 15.3%   |
| 11                | 102                   | 21.7%   | 243         | 51.7%   | 125                   | 26.6%   |
| 12                | 22                    | 21.8%   | 61          | 60.4%   | 18                    | 17.8%   |
| 13                | 16                    | 22.5%   | 40          | 56.3%   | 15                    | 21.1%   |
| 14                | 10                    | 23.8%   | 24          | 57.1%   | 8                     | 19.0%   |
| 15                | 20                    | 20.2%   | 56          | 56.6%   | 23                    | 23.2%   |
| 16                | 41                    | 12.5%   | 212         | 64.8%   | 74                    | 22.6%   |
| 17                | 14                    | 22.6%   | 41          | 66.1%   | 7                     | 11.3%   |
| 18                | 24                    | 30.4%   | 41          | 51.9%   | 14                    | 17.7%   |
| 19                | 23                    | 19.8%   | 67          | 57.8%   | 26                    | 22.4%   |
| 20                | 237                   | 21.5%   | 570         | 51.7%   | 296                   | 26.8%   |
| 21                | 8                     | 18.2%   | 24          | 54.5%   | 12                    | 27.3%   |
| 22                | 25                    | 22.7%   | 63          | 57.3%   | 22                    | 20.0%   |
| 23                | 16                    | 48.5%   | 10          | 30.3%   | 7                     | 21.2%   |
| 24                | 27                    | 19.4%   | 88          | 63.3%   | 24                    | 17.3%   |
| 25                | 14                    | 24.1%   | 37          | 63.8%   | 7                     | 12.1%   |
| 26                | 35                    | 17.8%   | 117         | 59.4%   | 45                    | 22.8%   |
| 27                | 18                    | 20.5%   | 59          | 67.0%   | 11                    | 12.5%   |
| 28                | 14                    | 18.9%   | 46          | 62.2%   | 14                    | 18.9%   |
| 29                | 13                    | 27.1%   | 29          | 60.4%   | 6                     | 12.5%   |
| 30                | 55                    | 13.2%   | 225         | 54.0%   | 137                   | 32.9%   |
| 31                | 11                    | 22.9%   | 31          | 64.6%   | 6                     | 12.5%   |
| JD Not Given      | 349                   | 15.6%   | 1344        | 60.0%   | 546                   | 24.4%   |
| Statewide         | 1402                  | 19.0%   | 4228        | 57.2%   | 1762                  | 23.8%   |

**Table 9: Calendar Year - 2002: Weekly Compensation Rate**

| Judicial District | Frequency | Mean     | Median   | Std. Deviation |
|-------------------|-----------|----------|----------|----------------|
| 1                 | 139       | \$295.36 | \$265.13 | \$122.13       |
| 2                 | 94        | \$307.82 | \$295.79 | \$131.44       |
| 3                 | 156       | \$313.90 | \$297.65 | \$116.30       |
| 4                 | 142       | \$294.52 | \$279.95 | \$133.69       |
| 5                 | 77        | \$312.39 | \$288.85 | \$128.97       |
| 6                 | 532       | \$323.32 | \$311.64 | \$128.03       |
| 7                 | 146       | \$365.88 | \$365.55 | \$137.21       |
| 8                 | 135       | \$275.94 | \$262.88 | \$108.93       |
| 9                 | 122       | \$358.14 | \$329.75 | \$146.78       |
| 10                | 214       | \$314.57 | \$313.65 | \$121.42       |
| 11                | 674       | \$330.12 | \$305.38 | \$136.33       |
| 12                | 128       | \$301.34 | \$286.23 | \$120.31       |
| 13                | 91        | \$290.80 | \$269.93 | \$102.34       |
| 14                | 63        | \$322.21 | \$300.37 | \$138.87       |
| 15                | 113       | \$361.15 | \$339.74 | \$124.02       |
| 16                | 389       | \$429.37 | \$476.39 | \$139.54       |
| 17                | 81        | \$321.87 | \$310.99 | \$127.29       |
| 18                | 100       | \$319.48 | \$311.38 | \$124.03       |
| 19                | 156       | \$329.06 | \$304.46 | \$123.23       |
| 20                | 1631      | \$356.54 | \$339.74 | \$136.38       |
| 21                | 50        | \$334.59 | \$325.89 | \$122.83       |
| 22                | 150       | \$341.07 | \$319.74 | \$134.10       |
| 23                | 38        | \$337.10 | \$328.59 | \$144.89       |
| 24                | 169       | \$291.45 | \$267.91 | \$110.65       |
| 25                | 67        | \$288.46 | \$271.63 | \$96.07        |
| 26                | 265       | \$321.65 | \$302.90 | \$126.04       |
| 27                | 152       | \$355.97 | \$348.17 | \$137.13       |
| 28                | 81        | \$307.13 | \$301.02 | \$107.15       |
| 29                | 62        | \$323.37 | \$309.73 | \$99.66        |
| 30                | 510       | \$358.81 | \$347.82 | \$142.47       |
| 31                | 58        | \$332.19 | \$316.34 | \$115.59       |

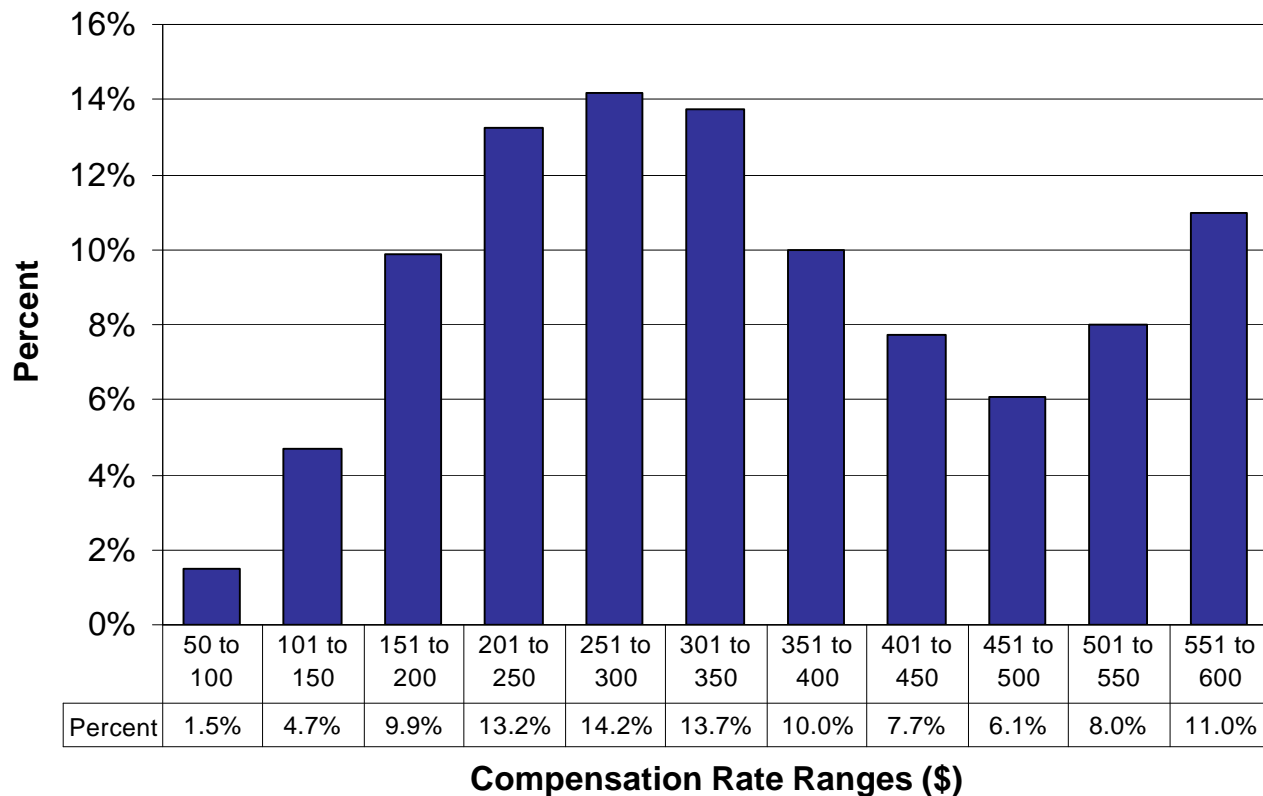
**Maximum Weekly Benefit**

8/1/92 - 6/30/93 \$318.24  
7/1/93 - 6/30/94 \$355.97  
7/1/94 - 6/30/95 \$382.79  
7/1/95 - 6/30/96 \$415.87  
7/1/96 - 6/30/97 \$453.14  
7/1/97 - 6/30/98 \$492.00  
7/1/98 - 6/30/99 \$515.00  
7/1/99 - 6/30/00 \$541.00  
7/1/00 - 6/30/01 \$562.00  
7/1/01 - 6/30/02 \$581.00  
7/1/02 - 6/30/03 \$599.00

|              |      |          |          |          |
|--------------|------|----------|----------|----------|
| JD Not Given | 2795 | \$349.25 | \$330.61 | \$140.11 |
|--------------|------|----------|----------|----------|

|           |      |          |          |          |
|-----------|------|----------|----------|----------|
| Statewide | 9580 | \$342.07 | \$322.28 | \$136.37 |
|-----------|------|----------|----------|----------|

**Figure 7: Calendar Year - 2002: Weekly Compensation Rate Distribution**



## TEMPORARY TOTAL DISABILITY

### NUMBER OF WEEKS

Table 10 lists the average number of weeks of Temporary Total Disability (TTD) benefits that were paid for 2002 cases. The calculation for the number of weeks of TTD benefits was made from SD-1 data by dividing the total monetary amount of TTD benefits paid by an injured workers' weekly compensation rate. It is the average of the calculated number of weeks of TTD benefits that Table 17 reports. *It is also important to note that this includes all injury types and severities.* The mean number of weeks of TTD benefits ranges from 13.6 in Judicial District 28 to 31.9 in Judicial District 2, with a statewide mean of 20.9. Differences between judicial districts are statistically significant.<sup>20</sup> Potential reasons for the differences in TTD duration could be due to differences in area doctors, employer return to work policies, attorneys and injury mix. The mean duration of TTD benefits being paid has increased from 18.2 weeks in 2000 to 20.9 in 2002, which reflects a less than one percent increase from 2000 to 2001 and a 14% increase from 2001 to 2002.

Figure 8 displays the distribution of TTD duration in weeks for cases concluding in 2002.

### MONETARY AMOUNTS

The average amount of TTD benefits paid in 2002 are listed in Table 11. Unlike the number of weeks of TTD benefits, the TTD amount is directly affected by a workers' weekly compensation rate. The data ranges from a mean of \$3,754.87 in Judicial District 28 to \$10,852.79 in Judicial District 13 with a statewide mean of \$6,885.68. Differences between judicial districts are statistically significant.<sup>21</sup> The reasons for the differences between judicial districts would be the same as for TTD duration with the addition of differences in wages. Mean TTD benefit amounts have risen from \$6,116.74 for 2000 cases to \$6,885.68 for 2002 cases or 7.8% from 2000 to 2001 and 4.4% from 2001 to 2002. Figure 9 displays the distribution of TTD benefit amounts for cases concluding in 2002. Not all SD-1 forms included the dollar amounts paid to the employee for TTD benefits.

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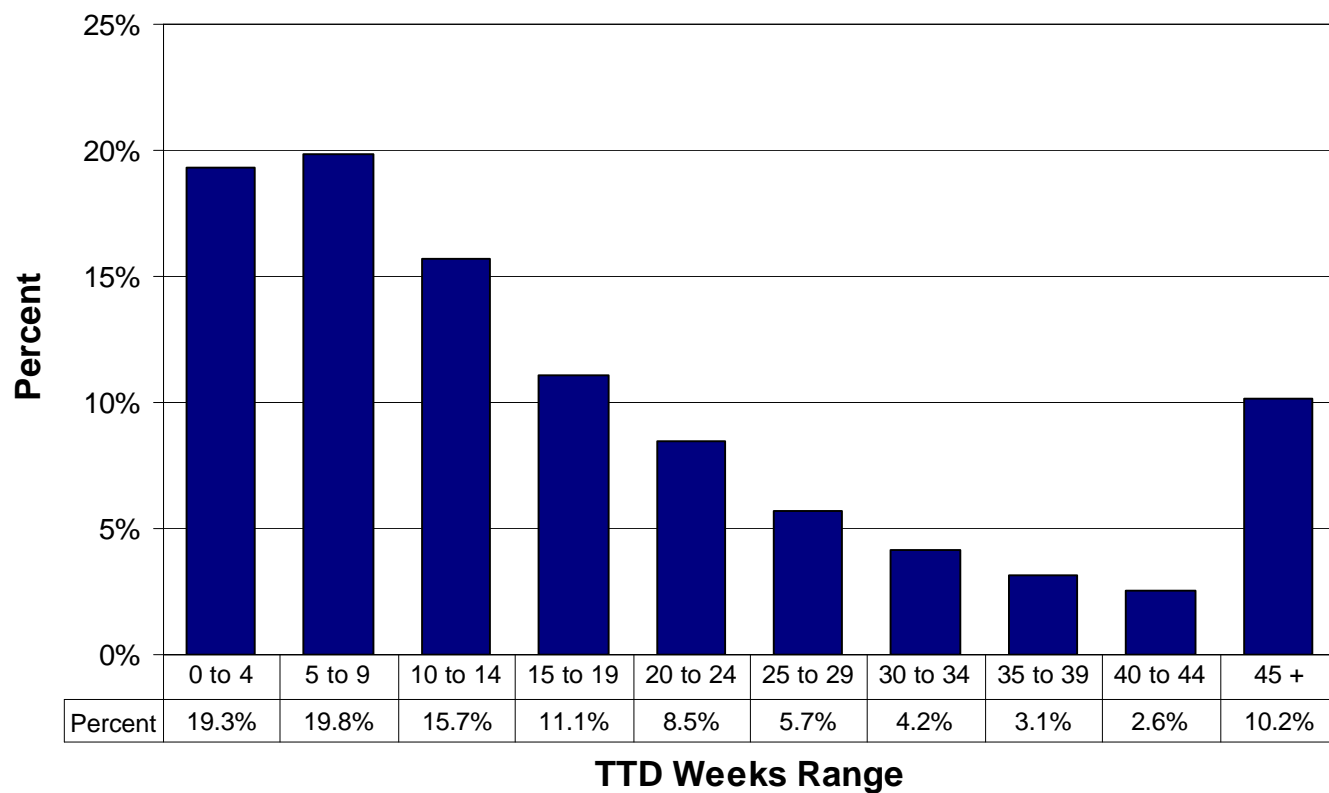
<sup>20</sup>  $p < .01$  Kruskal Wallis Test

<sup>21</sup>  $p < .01$  Kruskal Wallis Test

**Table 10: Calendar Year - 2002: Temporary Total Disability Benefits - Number of Weeks**

| <b>Judicial District</b> | <b>Frequency</b> | <b>Mean</b> | <b>Median</b> | <b>Std. Deviation</b> |
|--------------------------|------------------|-------------|---------------|-----------------------|
| 1                        | 97               | 27.1        | 18.1          | 26.8                  |
| 2                        | 60               | 31.9        | 21.9          | 32.0                  |
| 3                        | 93               | 23.1        | 16.0          | 24.2                  |
| 4                        | 97               | 27.2        | 22.0          | 28.2                  |
| 5                        | 48               | 26.8        | 21.1          | 23.7                  |
| 6                        | 373              | 21.8        | 13.4          | 25.2                  |
| 7                        | 93               | 18.8        | 12.9          | 18.3                  |
| 8                        | 89               | 31.2        | 19.8          | 42.6                  |
| 9                        | 76               | 28.7        | 17.2          | 32.5                  |
| 10                       | 142              | 30.8        | 19.0          | 35.0                  |
| 11                       | 472              | 26.9        | 17.3          | 28.5                  |
| 12                       | 93               | 31.0        | 19.1          | 37.1                  |
| 13                       | 60               | 34.5        | 25.4          | 32.3                  |
| 14                       | 38               | 18.5        | 11.4          | 19.9                  |
| 15                       | 82               | 19.9        | 15.1          | 16.2                  |
| 16                       | 301              | 22.9        | 14.1          | 38.1                  |
| 17                       | 54               | 27.0        | 16.7          | 46.4                  |
| 18                       | 68               | 25.9        | 17.2          | 24.6                  |
| 19                       | 102              | 23.4        | 14.9          | 30.8                  |
| 20                       | 1193             | 19.4        | 12.4          | 27.6                  |
| 21                       | 35               | 19.5        | 14.8          | 16.1                  |
| 22                       | 111              | 20.6        | 14.6          | 20.5                  |
| 23                       | 24               | 27.4        | 14.9          | 28.9                  |
| 24                       | 107              | 20.2        | 13.3          | 19.8                  |
| 25                       | 45               | 18.8        | 11.3          | 28.2                  |
| 26                       | 152              | 16.9        | 9.8           | 21.6                  |
| 27                       | 88               | 21.8        | 12.2          | 38.1                  |
| 28                       | 40               | 13.6        | 9.1           | 12.8                  |
| 29                       | 35               | 16.2        | 10.0          | 16.7                  |
| 30                       | 328              | 19.7        | 12.8          | 24.3                  |
| 31                       | 32               | 17.5        | 13.2          | 18.4                  |
|                          |                  |             |               |                       |
| JD Not Given             | 1975             | 17.0        | 11.3          | 21.1                  |
|                          |                  |             |               |                       |
| Statewide                | 6603             | 20.9        | 13.3          | 26.8                  |

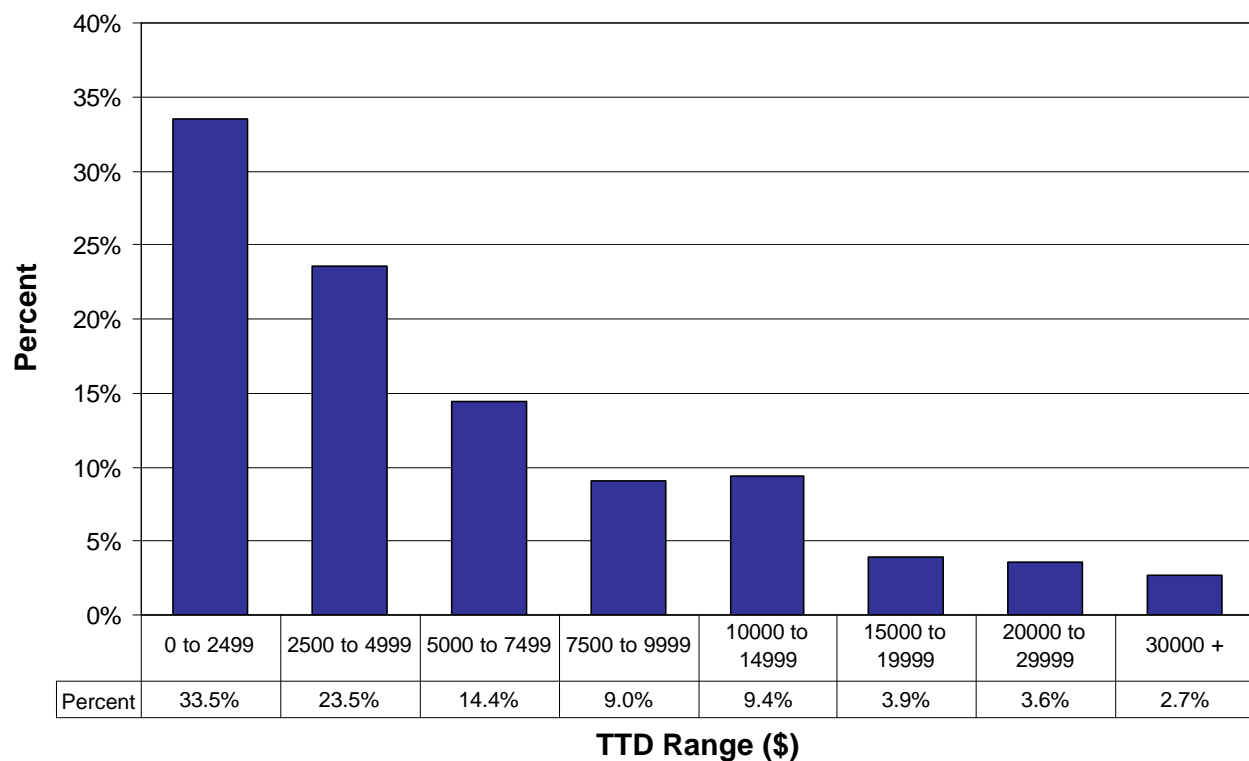
**Figure 8: Calendar Year - 2002: Temporary Total Disability Distribution - Number of Weeks**



**Table 11: Calendar Year - 2002: Temporary Total Disability - Monetary Benefits**

| <b>Judicial District</b> | <b>Frequency</b> | <b>Mean</b> | <b>Median</b> | <b>Std. Deviation</b> |
|--------------------------|------------------|-------------|---------------|-----------------------|
| 1                        | 97               | \$7,747.97  | \$5,120.85    | \$8,426.30            |
| 2                        | 60               | \$9,377.52  | \$5,449.92    | \$9,199.81            |
| 3                        | 94               | \$7,524.66  | \$4,384.95    | \$9,117.68            |
| 4                        | 97               | \$6,896.10  | \$5,973.24    | \$6,216.09            |
| 5                        | 54               | \$8,289.00  | \$5,469.68    | \$8,474.90            |
| 6                        | 376              | \$6,666.13  | \$3,825.10    | \$8,230.82            |
| 7                        | 95               | \$6,543.21  | \$4,021.71    | \$6,844.70            |
| 8                        | 89               | \$7,745.52  | \$5,280.00    | \$9,607.02            |
| 9                        | 76               | \$9,566.08  | \$5,317.34    | \$12,878.63           |
| 10                       | 146              | \$9,825.97  | \$5,336.20    | \$13,211.85           |
| 11                       | 475              | \$8,768.24  | \$5,200.00    | \$10,177.62           |
| 12                       | 93               | \$9,193.80  | \$4,971.12    | \$13,116.66           |
| 13                       | 60               | \$10,852.79 | \$7,894.88    | \$13,505.75           |
| 14                       | 38               | \$5,491.82  | \$3,291.27    | \$7,581.85            |
| 15                       | 83               | \$6,735.09  | \$5,247.54    | \$5,108.92            |
| 16                       | 307              | \$9,392.91  | \$6,236.29    | \$12,450.15           |
| 17                       | 54               | \$9,403.03  | \$4,573.72    | \$25,380.55           |
| 18                       | 69               | \$8,222.17  | \$4,343.83    | \$9,082.59            |
| 19                       | 103              | \$7,705.49  | \$5,023.21    | \$8,997.43            |
| 20                       | 1205             | \$6,757.98  | \$3,853.68    | \$9,708.48            |
| 21                       | 35               | \$6,713.34  | \$4,591.44    | \$6,464.64            |
| 22                       | 112              | \$7,615.29  | \$4,453.62    | \$11,746.08           |
| 23                       | 25               | \$6,682.79  | \$4,727.03    | \$7,454.97            |
| 24                       | 107              | \$6,231.35  | \$3,170.48    | \$7,664.53            |
| 25                       | 45               | \$4,922.28  | \$2,579.48    | \$6,491.19            |
| 26                       | 154              | \$5,597.91  | \$3,068.87    | \$9,427.09            |
| 27                       | 88               | \$7,600.12  | \$4,021.89    | \$9,420.59            |
| 28                       | 40               | \$3,754.87  | \$2,236.91    | \$3,551.72            |
| 29                       | 35               | \$5,108.46  | \$3,558.59    | \$5,077.47            |
| 30                       | 331              | \$6,873.30  | \$4,178.88    | \$9,112.17            |
| 31                       | 34               | \$6,411.90  | \$4,575.20    | \$9,399.59            |
|                          |                  |             |               |                       |
| JD Not Given             | 1987             | \$5,504.97  | \$3,500.00    | \$6,658.96            |
|                          |                  |             |               |                       |
| Statewide                | 6664             | \$6,885.68  | \$4,114.30    | \$9,264.46            |

**Figure 9: Calendar Year - 2002: Temporary Total Disability Distribution - Monetary Amounts**



## MEDICAL INFORMATION

### BENEFITS/EXPENSES

Table 12 lists the average amount of medical benefits paid for cases closed in 2002. *Like the TTD data, this includes all types of injuries and severities.* The statewide mean for medical benefits paid is \$16,772.33 with a range of \$13,603.22 in Judicial District 28 to \$22,009.04 in Judicial District 25.<sup>22</sup> Differences between judicial districts are statistically significant.<sup>23</sup> An explanation as to why there are differences between judicial districts could be answered by more closely looking at things like injury severity differences, settlement/trial ratios, rural versus urban differences and specific costs for similar services. However, this cannot be done from the data available on the SD-1 forms. Figure 10 displays the medical benefit distribution. Paid medical benefits/expenses have increased 7% per year from 2000 to 2002.

### NUMBER OF PERMANENT PARTIAL IMPAIRMENT RATINGS

Figure 11 represents the number of PPI ratings given per case comparing trials and settlements. In most instances this number will be equal to the number of doctors per case, but not always. It is possible that one doctor could give more than one PPI rating for the same injury (i.e., a specific impairment to the hand is converted to a percentage of impairment to the arm). It is also possible that the same doctor could give more than one PPI rating to different body parts injured in the same case (i.e., 10% PPI to the left arm and 5% PPI to the left leg). Usually multiple body part PPI ratings are for injuries to the fingers. Up from 74% in 2000 and 2001, 86% of the cases involved the use of only one PPI rating in 2002. Only 58% of trials concluding in 2002 involved the use of one PPI rating. In 39% of trials, two PPI ratings were given.

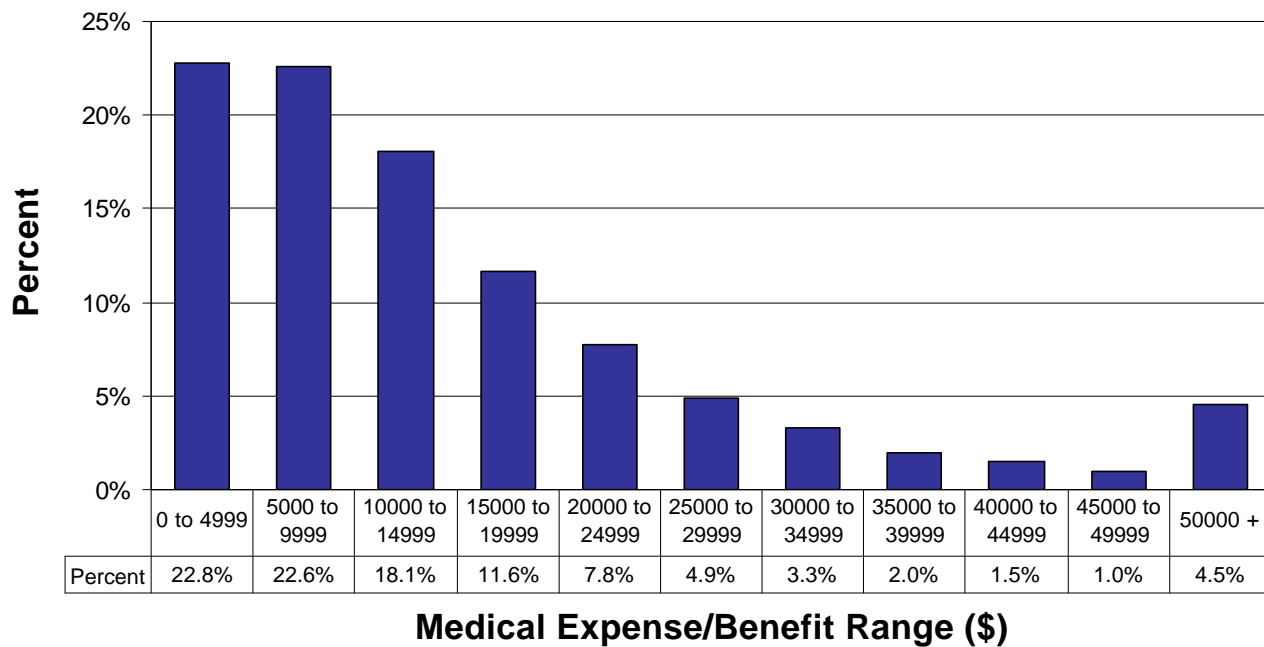
<sup>22</sup> It should be noted that the medical data reported also included money paid to close out medical benefits in lump sum settlements.

<sup>23</sup>  $p < .01$  Kruskal Wallis Test

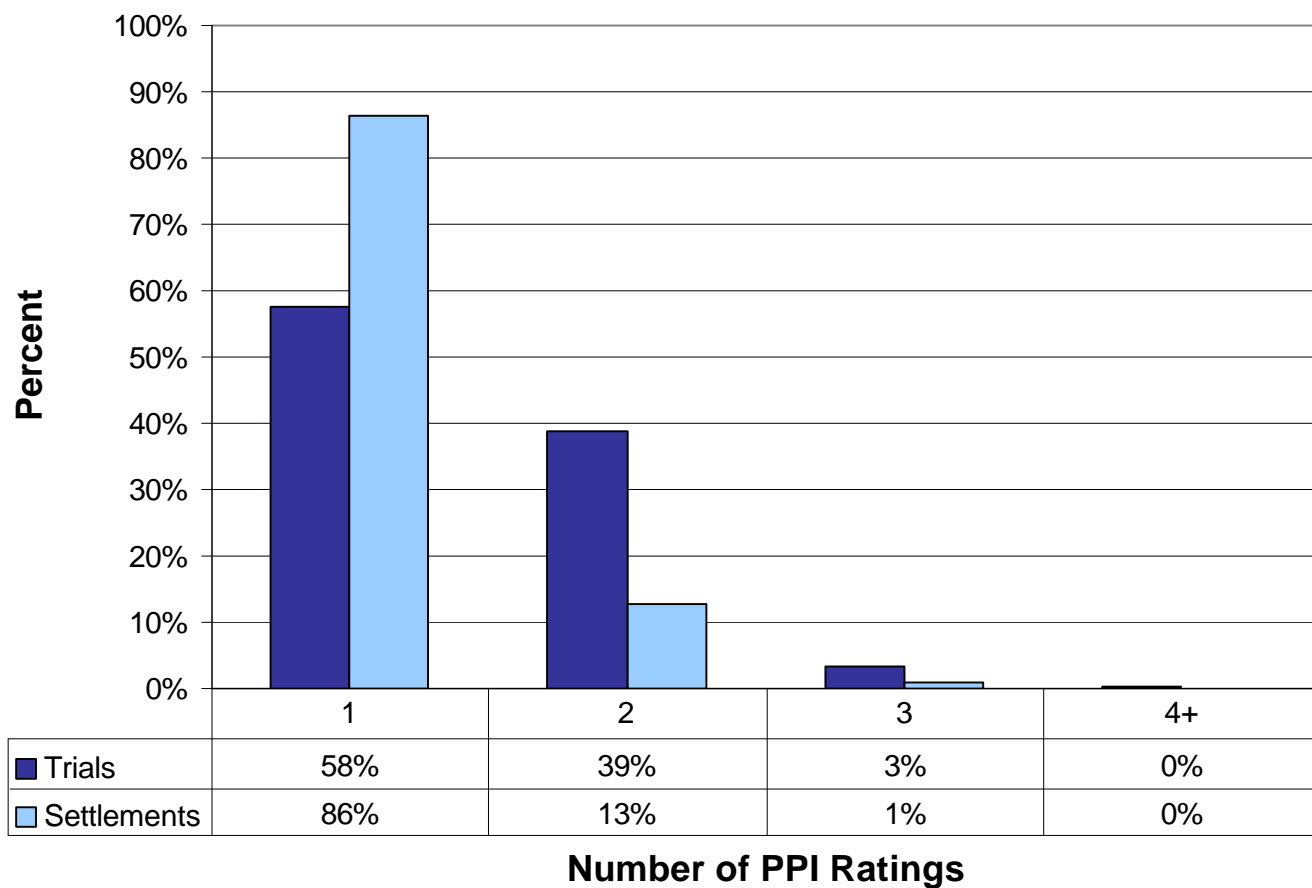
**Table 12: Calendar Year - 2002: Medical Benefits/Expenses**

| <b>Judicial District</b> | <b>Frequency</b> | <b>Mean</b> | <b>Median</b> | <b>Std. Deviation</b> |
|--------------------------|------------------|-------------|---------------|-----------------------|
| 1                        | 121              | \$17,299.45 | \$11,857.86   | \$17,000.98           |
| 2                        | 82               | \$17,152.67 | \$10,101.00   | \$20,513.30           |
| 3                        | 139              | \$19,007.89 | \$12,248.98   | \$25,656.28           |
| 4                        | 117              | \$17,807.10 | \$10,396.64   | \$20,247.03           |
| 5                        | 71               | \$16,031.45 | \$11,568.70   | \$17,528.46           |
| 6                        | 480              | \$16,933.94 | \$10,885.87   | \$21,189.06           |
| 7                        | 118              | \$14,578.39 | \$9,135.64    | \$17,701.00           |
| 8                        | 117              | \$19,249.85 | \$11,694.00   | \$32,211.50           |
| 9                        | 91               | \$19,072.90 | \$11,098.95   | \$23,783.39           |
| 10                       | 193              | \$20,780.73 | \$12,681.33   | \$25,871.60           |
| 11                       | 617              | \$18,478.15 | \$11,937.72   | \$22,306.08           |
| 12                       | 110              | \$18,444.65 | \$13,626.88   | \$17,340.11           |
| 13                       | 78               | \$20,573.35 | \$14,030.21   | \$19,677.55           |
| 14                       | 58               | \$14,271.85 | \$11,920.01   | \$12,744.10           |
| 15                       | 96               | \$17,771.75 | \$14,100.24   | \$16,432.85           |
| 16                       | 359              | \$16,678.89 | \$10,240.21   | \$26,447.76           |
| 17                       | 71               | \$14,769.03 | \$11,483.30   | \$13,282.82           |
| 18                       | 87               | \$23,547.47 | \$16,980.19   | \$36,245.45           |
| 19                       | 140              | \$14,924.58 | \$10,048.17   | \$16,350.39           |
| 20                       | 1538             | \$18,407.41 | \$12,712.91   | \$28,781.47           |
| 21                       | 38               | \$21,415.40 | \$12,732.16   | \$43,963.65           |
| 22                       | 132              | \$18,044.06 | \$13,294.47   | \$18,412.96           |
| 23                       | 33               | \$18,308.51 | \$13,143.52   | \$17,469.98           |
| 24                       | 147              | \$15,833.49 | \$9,661.95    | \$20,993.19           |
| 25                       | 60               | \$22,009.04 | \$10,468.37   | \$46,413.71           |
| 26                       | 235              | \$13,890.12 | \$9,565.00    | \$21,233.01           |
| 27                       | 138              | \$15,252.87 | \$11,861.05   | \$19,566.85           |
| 28                       | 70               | \$13,603.22 | \$9,285.31    | \$18,301.28           |
| 29                       | 50               | \$18,763.56 | \$10,798.53   | \$25,550.13           |
| 30                       | 441              | \$17,678.73 | \$11,486.88   | \$36,278.63           |
| 31                       | 50               | \$15,617.53 | \$11,466.14   | \$14,405.41           |
|                          |                  |             |               |                       |
| JD Not Given             | 2681             | \$14,674.90 | \$10,006.00   | \$27,870.57           |
|                          |                  |             |               |                       |
| Statewide                | 8758             | \$16,772.33 | \$11,040.80   | \$26,410.43           |

**Figure 10: Calendar Year - 2002: Medical Expense Distribution**



**Figure 11: Calendar Year 2002: Number Permanent Partial Impairment Ratings Given Per Case**



## BODY PARTS INJURED

Specific body parts injured and type of injuries are unavailable for 2000 and 2001 data, so to stay consistent with past data, the same reporting methods will be used for 2002. Table 13 displays what permanent partial disability (PPD) amounts are based on, a body part from the schedule or on the body as a whole (BAW) for 2000 through 2002 cases. For cases closed in 2002, 37.9% of PPD amounts are based on the body as a whole, 22.2% on arms and 16.6% on legs. The percentage of BAW, arm and leg cases are all down in 2002 from 2000 and 2001.

**Table 13: Ten Most Frequently Occurring Permanent Partial Disability Body Part Award Basis**

### Calendar Year 2000

| Body Part       | N    | Percent |
|-----------------|------|---------|
| Body as a Whole | 4512 | 42.8%   |
| Arm             | 2579 | 24.5%   |
| Leg             | 1853 | 17.6%   |
| Hand            | 530  | 5.0%    |
| Index Finger    | 253  | 2.4%    |
| Thumb           | 176  | 1.7%    |
| Foot            | 159  | 1.5%    |
| Middle Finger   | 154  | 1.5%    |
| Little Finger   | 113  | 1.1%    |
| Ring Finger     | 108  | 1.0%    |

### Calendar Year 2001

| Body Part       | N    | Percent |
|-----------------|------|---------|
| Body as a Whole | 4240 | 43.2%   |
| Arm             | 2449 | 24.9%   |
| Leg             | 1773 | 18.1%   |
| Hand            | 419  | 4.3%    |
| Index Finger    | 257  | 2.6%    |
| Foot            | 138  | 1.4%    |
| Middle Finger   | 132  | 1.3%    |
| Little Finger   | 104  | 1.1%    |
| Ring Finger     | 104  | 1.1%    |
| Thumb           | 90   | 0.9%    |

### Calendar Year 2002

| Body Part       | N    | Percent |
|-----------------|------|---------|
| Body as a Whole | 3890 | 37.9%   |
| Arm             | 2281 | 22.2%   |
| Leg             | 1705 | 16.6%   |
| Hand            | 415  | 4.0%    |
| Index Finger    | 185  | 1.8%    |
| Foot            | 161  | 1.6%    |
| Middle Finger   | 145  | 1.4%    |
| Thumb           | 130  | 1.3%    |
| Ring Finger     | 115  | 1.1%    |
| Little Finger   | 104  | 1.0%    |

Calendar year 2002 marks the first year in which body parts injured and nature of injury have been captured in the WCS. The coding was done at a later time by the Department using IAIABC nature of injury and body part codes<sup>24</sup> and was not available during the initial data query. Thus it was not possible for an analysis of the injuries to be included in this report in a timely manner. However, injury frequencies from these codes are included. Table 14 lists the 10 most frequently occurring body parts injured and Table 15 lists the 10 most frequently occurring nature of injuries for 2002 cases in Tennessee. More in depth analysis using body part and injury data is planned.

**Table 14: 10 Most Frequently Occurring Body Parts Injured for 2002 Cases Using IAIABC Injury Code**

| IAIABC Body Part Code | Body Part Injured                              | Frequency | Percent of Cases | Cumulative Percent |
|-----------------------|------------------------------------------------|-----------|------------------|--------------------|
| 43                    | DISC†                                          | 1556      | 17.6             | 17.6               |
| 53                    | KNEE                                           | 758       | 8.6              | 26.2               |
| 38                    | SHOULDER(S)                                    | 725       | 8.2              | 34.4               |
| 90                    | MULTIPLE BODY PARTS‡                           | 690       | 7.8              | 42.3               |
| 33                    | LOWER ARM                                      | 654       | 7.4              | 49.7               |
| 36                    | FINGER(S)                                      | 609       | 6.9              | 56.6               |
| 34                    | WRIST                                          | 597       | 6.8              | 63.3               |
| 42                    | LOWER BACK AREA (LUMBAR AREA AND LUMBO-SACRAL) | 528       | 6.0              | 69.3               |
| 52                    | UPPER LEG                                      | 519       | 5.9              | 75.2               |
| 35                    | HAND                                           | 296       | 3.4              | 78.6               |

- † Spinal column cartilage other than cervical segment  
‡ Including body systems and body parts

**Table 15: 10 Most Frequently Occurring Nature of Injuries for 2002 Cases Using IAIABC Injury Codes**

| IAIABC Injury Code | Type of Injury                   | Frequency | Percent of Cases | Cumulative Percent |
|--------------------|----------------------------------|-----------|------------------|--------------------|
| 52                 | STRAIN                           | 2424      | 29.5             | 29.5               |
| 28                 | FRACTURE                         | 997       | 12.1             | 41.6               |
| 90                 | MULTIPLE PHYSICAL INJURIES ONLY  | 931       | 11.3             | 52.9               |
| 78                 | CARPAL TUNNEL SYNDROME           | 700       | 8.5              | 61.4               |
| 59                 | ALL OTHER SPECIFIC INJURIES NOC  | 658       | 8.0              | 69.4               |
| 16                 | DISLOCATION                      | 554       | 6.7              | 76.1               |
| 49                 | SPRAIN                           | 331       | 4.0              | 80.2               |
| 40                 | LACERATION                       | 329       | 4.0              | 84.2               |
| 2                  | AMPUTATION                       | 215       | 2.6              | 86.8               |
| 80                 | ALL OTHER CUMULATIVE INJURY, NOC | 167       | 2.0              | 88.8               |

<sup>24</sup>International Association of Industrial Accident Boards and Commissions (IAIABC) is a not-for-profit trade association representing government agencies charged with the administration of workers' compensation systems throughout most of the United States and Canada, and other nations and territories.

## BODY AS A WHOLE - EMPLOYEE RETURNED TO PRE-INJURY EMPLOYMENT

### PERMANENT PARTIAL IMPAIRMENT RATINGS

Table 16 lists the average of the highest permanent partial impairment (PPI) ratings given for BAW cases in which the injured workers returned to work for their pre-injury employers at same or higher pay. The "average highest PPI rating" is the average of each of the highest impairment ratings given by a physician to the injured worker in each of the cases reviewed. For example, assume six body as a whole trials were conducted with the following information: (\* indicates highest PPI)

| Case | PPI 1 | PPI 2 |
|------|-------|-------|
| 1    | 10*   | 5     |
| 2    | 3     | 5*    |
| 3    | 5*    |       |
| 4    | 20*   | 16    |
| 5    | 45*   | 10    |
| 6    | 0     | 5*    |

The average highest PPI is 15 [calculated by adding the highest PPI ratings (10, 5, 5, 20, 45, 5) and dividing by 6]. The average highest PPI is utilized as a comparison because a judge has discretion to accept any of the PPI ratings given and the determination as to whether a judge properly applied the multiplier caps in body as a whole cases is directly related to the highest PPI rating given.

As shown in Table 16, the mean PPI ratings for 2002 range from 8.3% to the BAW in Judicial Districts 16 and 19 to 14.1% in Judicial District 17. The statewide mean PPI is 9.5% to the BAW. Differences between judicial districts for PPD amounts are statistically significant for BAW return to work cases.<sup>25</sup> The differences may be attributable to differences in injury severity, local medical practices and the utilization of independent medical examinations. The mean PPI ratings for BAW cases where the injured worker returned to work have stayed fairly consistent over the three years for which data is available: 9.4% in 2000; 9.2% in 2001 and 9.5% in 2002.

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<sup>25</sup>  $p < .02$  Kruskal Wallis Test

## PERMANENT PARTIAL DISABILITY PERCENTAGE

Table 17 lists the average percentage of permanent partial disability (PPD) awards/settlements for body as a whole injuries in cases where the injured employee returned to work for the same employer. The mean PPD percentage for the state for 2002 cases is 19.7% (nearly 80 weeks) to the body as a whole. The mean PPD awards/settlements range from 15.9% (almost 64 weeks) in Judicial District 16 to 32.1% (128 weeks) in Judicial District 5. Differences between judicial districts for PPD amounts are statistically significant for BAW return to work cases.<sup>26</sup> The apparent differences may be due to local job opportunities, PPI differences and judicial discretion. Average PPD amounts have increased from 18.5% in 2000 to 19.7% in 2002, which reflects a 2.4% increase from 2000 to 2001 and a 4.1% increase from 2001 to 2002.

## PERMANENT PARTIAL DISABILITY MULTIPLIERS

A permanent partial disability (PPD) multiplier is the ratio of the PPD judgment or settlement amount to the highest PPI rating given to an injured employee. To determine the multiplier, the PPD percent was divided by the highest PPI rating. To ensure accuracy, cases were selected for analysis only if the SD-1 form included both a BAW PPI rating and a BAW PPD judgment or settlement amount.

The statewide mean PPD multiplier for BAW cases where the injured worker returned to work for 2002 cases is 2.3, with a range of 1.7 in Judicial District 31 to 2.9 in Judicial District 9. All judicial districts as well as the statewide mean and median PPD multipliers for BAW return to work cases for calendar year 2002 are listed in Table 18. Differences between judicial districts for PPD amounts are statistically significant for BAW return to work cases.<sup>27</sup> The reasons for the differences would be the same as those for PPD percent mentioned previously.

For several judicial districts, the multiplier was greater than 2.5, the statutory cap placed on BAW judgments in cases where the injured worker was returned to work. Possible reasons for this

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<sup>26</sup>  $p < .01$  Kruskal Wallis Test

<sup>27</sup>  $p < .01$  Kruskal Wallis Test

are the injured worker met the age and education requirements for exceeding the 2.5 times cap set forth in TCA §50-6-241 the PPD judgment amount was based on a PPI rating not given on the SD-1, or the parties settled to an amount higher than a 2.5 time multiplier. PPD multipliers have stayed relatively constant from 2000 to 2002.

#### PERMANENT PARTIAL DISABILITY MONETARY AMOUNTS

Like the data for the average TTD monetary amounts paid discussed previously, average PPD monetary amounts paid are very much influenced by weekly compensation rates. Table 19 lists the average PPD monetary payments for 2002 BAW return to work cases. The statewide mean is \$29,299.43 with a range from \$23,363.92 in Judicial District 25 to \$49,677.85 in Judicial District 1. PPD monetary amounts for BAW return to work cases have increased rapidly in three years from \$22,212.91 in 2000 to \$29,299.43 in 2002. The 2001 amounts being 10% higher than 2000 and the 2002 amounts are 20% higher than 2001.

Because PPD monetary amounts paid are influenced directly by other variables (i.e., compensation rate and PPD percentage amount) that are statistically different from each other, so would the monetary amounts paid be statistically different. This, however, is of little value; therefore, significance tests are not reported for PPD monetary amounts paid here and throughout the rest of the report.

**Table 16: Calendar Year - 2002: Permanent Partial Impairment - Body as a Whole Injuries - Employee Returned to Work for Pre-Injury Employer**

| <b>Judicial District</b> | <b>Frequency</b> | <b>Mean</b> | <b>Median</b> | <b>Std. Deviation</b> |
|--------------------------|------------------|-------------|---------------|-----------------------|
| 1                        | 24               | 11.0        | 11.0          | 5.8                   |
| 2                        | 11               | 10.6        | 10.0          | 6.4                   |
| 3                        | 23               | 8.8         | 8.0           | 6.4                   |
| 4                        | 23               | 11.2        | 7.5           | 9.7                   |
| 5                        | 12               | 10.5        | 9.0           | 7.0                   |
| 6                        | 136              | 10.6        | 7.8           | 9.5                   |
| 7                        | 29               | 13.7        | 11.0          | 10.5                  |
| 8                        | 22               | 9.8         | 9.0           | 5.1                   |
| 9                        | 21               | 10.9        | 8.0           | 10.4                  |
| 10                       | 46               | 10.6        | 8.0           | 7.3                   |
| 11                       | 132              | 8.7         | 5.5           | 8.1                   |
| 12                       | 23               | 8.4         | 8.5           | 5.5                   |
| 13                       | 16               | 10.9        | 10.0          | 5.8                   |
| 14                       | 14               | 8.5         | 7.0           | 5.8                   |
| 15                       | 35               | 9.4         | 8.0           | 4.7                   |
| 16                       | 102              | 8.3         | 7.0           | 4.8                   |
| 17                       | 15               | 14.1        | 8.0           | 20.3                  |
| 18                       | 24               | 11.3        | 8.5           | 14.2                  |
| 19                       | 31               | 8.3         | 7.0           | 3.9                   |
| 20                       | 343              | 9.1         | 7.0           | 7.8                   |
| 21                       | 16               | 10.4        | 8.0           | 7.7                   |
| 22                       | 41               | 9.9         | 8.0           | 5.6                   |
| 23                       | 9                | 9.8         | 8.0           | 6.7                   |
| 24                       | 35               | 14.0        | 12.0          | 9.7                   |
| 25                       | 10               | 9.2         | 6.0           | 9.0                   |
| 26                       | 41               | 10.4        | 10.0          | 6.8                   |
| 27                       | 40               | 9.6         | 10.0          | 4.5                   |
| 28                       | 15               | 11.5        | 11.0          | 4.6                   |
| 29                       | 11               | 11.5        | 6.0           | 9.4                   |
| 30                       | 129              | 11.2        | 9.0           | 10.8                  |
| 31                       | 16               | 9.5         | 6.5           | 6.7                   |
| JD Not Given             | 566              | 8.2         | 7.0           | 6.1                   |
| Statewide                | 2011             | 9.5         | 8.0           | 7.8                   |

**Table 17: Calendar Year - 2002: Percentage Awarded for Permanent Partial Disability Body as a Whole Injuries - Employee Returned to Work for Pre-Injury Employer**

| Judicial District | Frequency | Mean | Median | Std. Deviation |
|-------------------|-----------|------|--------|----------------|
| 1                 | 30        | 28.2 | 17.8   | 22.5           |
| 2                 | 15        | 18.7 | 12.5   | 13.4           |
| 3                 | 32        | 24.9 | 17.3   | 23.9           |
| 4                 | 29        | 30.2 | 21.0   | 29.2           |
| 5                 | 13        | 32.1 | 27.5   | 23.7           |
| 6                 | 156       | 23.0 | 17.5   | 19.4           |
| 7                 | 39        | 30.2 | 20.3   | 24.1           |
| 8                 | 37        | 26.5 | 20.0   | 14.7           |
| 9                 | 24        | 24.9 | 22.0   | 14.1           |
| 10                | 50        | 21.7 | 19.4   | 16.3           |
| 11                | 162       | 18.2 | 14.0   | 15.6           |
| 12                | 36        | 24.0 | 21.0   | 14.5           |
| 13                | 18        | 26.8 | 23.5   | 14.7           |
| 14                | 16        | 21.3 | 15.6   | 14.8           |
| 15                | 40        | 22.5 | 21.3   | 12.2           |
| 16                | 119       | 15.9 | 13.0   | 9.8            |
| 17                | 22        | 19.2 | 15.0   | 12.3           |
| 18                | 25        | 22.5 | 20.0   | 14.5           |
| 19                | 40        | 20.6 | 15.0   | 14.0           |
| 20                | 419       | 18.5 | 15.0   | 15.3           |
| 21                | 20        | 24.5 | 14.9   | 20.0           |
| 22                | 49        | 19.9 | 15.0   | 15.0           |
| 23                | 11        | 21.6 | 17.5   | 11.3           |
| 24                | 48        | 29.0 | 25.0   | 19.1           |
| 25                | 13        | 17.5 | 14.0   | 10.5           |
| 26                | 57        | 18.8 | 15.0   | 14.6           |
| 27                | 52        | 20.9 | 19.2   | 12.0           |
| 28                | 18        | 21.9 | 22.8   | 14.5           |
| 29                | 15        | 20.6 | 18.0   | 11.5           |
| 30                | 160       | 20.7 | 17.8   | 14.5           |
| 31                | 17        | 16.7 | 12.5   | 13.7           |
|                   |           |      |        |                |
| JD Not Given      | 683       | 16.3 | 13.5   | 12.6           |
|                   |           |      |        |                |
| Statewide         | 2465      | 19.7 | 15.0   | 15.6           |

**Table 18: Calendar Year - 2002: Permanent Partial Disability Multipliers - Body as a Whole Injuries - Employee Returned to Work for Pre-Injury Employer**

| Judicial District | Frequency | Mean | Median | Std. Deviation |
|-------------------|-----------|------|--------|----------------|
| 1                 | 24        | 2.7  | 2.5    | 1.6            |
| 2                 | 11        | 2.0  | 2.0    | 0.8            |
| 3                 | 23        | 2.5  | 2.5    | 1.1            |
| 4                 | 22        | 2.8  | 2.7    | 1.4            |
| 5                 | 11        | 2.8  | 2.1    | 1.1            |
| 6                 | 134       | 2.3  | 2.2    | 0.9            |
| 7                 | 28        | 2.2  | 2.3    | 1.1            |
| 8                 | 22        | 3.3  | 2.5    | 1.4            |
| 9                 | 21        | 2.9  | 2.5    | 0.9            |
| 10                | 46        | 2.2  | 2.1    | 1.1            |
| 11                | 129       | 2.3  | 2.0    | 0.9            |
| 12                | 23        | 2.7  | 2.5    | 0.6            |
| 13                | 16        | 2.6  | 2.4    | 0.8            |
| 14                | 14        | 2.6  | 2.3    | 1.0            |
| 15                | 35        | 2.2  | 2.0    | 0.9            |
| 16                | 102       | 2.2  | 2.0    | 0.7            |
| 17                | 15        | 2.6  | 2.5    | 0.6            |
| 18                | 24        | 2.4  | 2.3    | 0.9            |
| 19                | 31        | 2.7  | 2.3    | 0.8            |
| 20                | 342       | 2.2  | 2.0    | 0.9            |
| 21                | 15        | 2.3  | 2.0    | 1.0            |
| 22                | 41        | 2.3  | 2.0    | 0.9            |
| 23                | 9         | 2.7  | 2.5    | 0.8            |
| 24                | 35        | 2.1  | 2.0    | 1.1            |
| 25                | 10        | 2.0  | 1.9    | 0.5            |
| 26                | 41        | 2.0  | 1.9    | 1.3            |
| 27                | 40        | 2.5  | 2.2    | 1.1            |
| 28                | 15        | 2.1  | 1.8    | 0.5            |
| 29                | 11        | 2.2  | 2.1    | 0.8            |
| 30                | 128       | 2.2  | 2.0    | 0.7            |
| 31                | 16        | 1.7  | 1.7    | 0.7            |
|                   |           |      |        |                |
| JD Not Given      | 560       | 2.1  | 2.0    | 0.9            |
|                   |           |      |        |                |
| Statewide         | 1994      | 2.3  | 2.0    | 0.9            |

**Table 19: Calendar Year - 2002: Permanent Partial Disability - Monetary Benefits - Body as a Whole Injuries - Employee Returned to Work for Pre-Injury Employer**

| Judicial District | Frequency | Mean        | Median      | Std. Deviation |
|-------------------|-----------|-------------|-------------|----------------|
| 1                 | 28        | \$49,677.85 | \$32,791.00 | \$47,242.60    |
| 2                 | 15        | \$25,978.29 | \$19,695.00 | \$21,689.51    |
| 3                 | 30        | \$34,693.08 | \$17,789.57 | \$51,982.12    |
| 4                 | 22        | \$28,425.03 | \$23,326.16 | \$35,266.48    |
| 5                 | 13        | \$35,535.27 | \$45,475.10 | \$23,133.33    |
| 6                 | 139       | \$32,724.57 | \$22,000.00 | \$34,267.19    |
| 7                 | 34        | \$43,981.56 | \$33,277.50 | \$34,073.64    |
| 8                 | 34        | \$31,886.28 | \$33,084.00 | \$22,563.97    |
| 9                 | 23        | \$38,685.71 | \$26,348.40 | \$32,158.26    |
| 10                | 46        | \$31,060.82 | \$26,988.00 | \$23,804.52    |
| 11                | 149       | \$27,226.96 | \$21,578.50 | \$25,283.32    |
| 12                | 31        | \$32,960.84 | \$27,050.00 | \$23,409.87    |
| 13                | 15        | \$34,848.40 | \$27,500.00 | \$21,419.33    |
| 14                | 14        | \$26,384.64 | \$21,750.00 | \$16,435.06    |
| 15                | 37        | \$33,859.83 | \$30,000.00 | \$21,268.46    |
| 16                | 114       | \$31,610.67 | \$27,888.00 | \$19,824.17    |
| 17                | 18        | \$29,662.80 | \$22,240.00 | \$24,963.51    |
| 18                | 23        | \$29,552.50 | \$24,266.20 | \$18,390.24    |
| 19                | 35        | \$33,694.92 | \$19,285.80 | \$30,575.43    |
| 20                | 374       | \$28,957.96 | \$20,900.85 | \$28,541.73    |
| 21                | 18        | \$25,780.19 | \$22,810.42 | \$17,729.58    |
| 22                | 41        | \$27,974.11 | \$20,916.00 | \$17,899.42    |
| 23                | 11        | \$35,156.92 | \$26,200.30 | \$27,882.84    |
| 24                | 41        | \$38,403.73 | \$26,637.60 | \$33,296.59    |
| 25                | 13        | \$23,363.92 | \$15,000.00 | \$20,584.64    |
| 26                | 49        | \$27,338.41 | \$22,338.80 | \$24,756.07    |
| 27                | 51        | \$33,028.90 | \$28,614.40 | \$22,149.89    |
| 28                | 16        | \$29,378.72 | \$24,471.50 | \$24,189.92    |
| 29                | 12        | \$24,569.68 | \$22,459.30 | \$14,150.60    |
| 30                | 149       | \$33,102.27 | \$27,888.00 | \$24,591.05    |
| 31                | 17        | \$32,635.69 | \$28,100.00 | \$21,197.05    |
| JD Not Given      | 631       | \$24,026.48 | \$19,208.34 | \$20,537.89    |
| Statewide         | 2243      | \$29,299.43 | \$22,374.40 | \$26,166.77    |

## **BODY AS A WHOLE CASES - EMPLOYEE DID NOT RETURN TO PRE-INJURY EMPLOYMENT**

### **PERMANENT PARTIAL IMPAIRMENT RATINGS**

Average highest permanent partial impairment (PPI) ratings for BAW cases where the injured worker did not return to work for cases concluded in 2002 are listed in Table 20. The statewide mean highest PPI rating for BAW no return to work cases is 12.8% with a range from 3.5% in Judicial District 31 to 34.6% in Judicial District 29. Mean PPI ratings for body as a whole cases where the injured worker did not return to work increased by more than 4% from 2000 to 2001 then decreased by nearly 14% from 2001 to 2002.

### **PERMANENT PARTIAL DISABILITY PERCENTAGE**

Table 21 lists the average percentage of PPD for employees with injuries to the body as a whole who did not return to work for the pre-injury employer that concluded in 2002. The mean PPD percent is 34.4% (137.6 weeks) to the body as a whole and ranges from a low of 13.0% (52 weeks) in Judicial District 31 to a high of 49.2% (197 weeks) in Judicial District 8. Differences between judicial districts for PPD percent for BAW no return to work cases are statistically significant.<sup>28</sup> From 2000 to 2001 PPD judgment/settlement percents for BAW no return to work cases increased by 4.3% and from 2001 to 2002 by less than one half of a percent.

### **PERMANENT PARTIAL DISABILITY MULTIPLIERS**

Calendar year 2002 BAW cases in which the employee did not return to work for the pre-injury employer have a mean PPD multiplier of 3.2 and are displayed in Table 22. The data ranges from a 1.8 multiplier in Judicial District 29 to a multiplier of 4.9 in Judicial District 12. Differences between judicial districts are statistically significant.<sup>29</sup> PPD multipliers for body as whole

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<sup>28</sup>  $p < .01$  Kruskal Wallis Test

<sup>29</sup>  $p < .01$  Kruskal Wallis Test

cases where the employee returned to work have remained constant from 2001 to 2002 and only rose from 3.1 to 3.2 (2.6%) from 2000 to 2001.

#### PERMANENT PARTIAL DISABILITY MONETARY AMOUNTS

Table 23 lists the average judgment and settlement monetary amounts for 2002 BAW no return to work cases. The statewide mean amount is \$46,581.31 with a range of \$16,471.00 in Judicial District 31 to \$95,181.19 in Judicial District 12. Again it must be remembered that this data is a function of the compensation rate as well as the percentage of permanent partial disability. Mean PPD judgment and settlement amounts for BAW no return to work cases increased by nearly 15.9% from 2000 to 2001 and 14.5% from 2001 to 2002.

**Table 20: Calendar Year - 2002: Permanent Partial Impairment - Body as a Whole Injuries - Employee Did Not Return to Work for Pre-Injury Employer**

| <b>Judicial District</b> | <b>Frequency</b> | <b>Mean</b> | <b>Median</b> | <b>Std. Deviation</b> |
|--------------------------|------------------|-------------|---------------|-----------------------|
| 1                        | 26               | 12.3        | 10.0          | 5.7                   |
| 2                        | 16               | 15.0        | 13.0          | 9.3                   |
| 3                        | 27               | 11.7        | 10.0          | 6.6                   |
| 4                        | 29               | 11.2        | 11.0          | 6.4                   |
| 5                        | 10               | 9.7         | 7.0           | 7.5                   |
| 6                        | 53               | 11.7        | 10.0          | 7.0                   |
| 7                        | 9                | 8.3         | 7.0           | 4.6                   |
| 8                        | 27               | 16.2        | 10.0          | 11.5                  |
| 9                        | 14               | 15.4        | 11.0          | 13.5                  |
| 10                       | 34               | 18.3        | 11.5          | 20.3                  |
| 11                       | 91               | 11.3        | 10.0          | 6.7                   |
| 12                       | 12               | 16.5        | 15.8          | 9.1                   |
| 13                       | 16               | 15.0        | 12.8          | 8.5                   |
| 14                       | 10               | 10.0        | 7.5           | 7.7                   |
| 15                       | 9                | 11.1        | 10.0          | 6.4                   |
| 16                       | 39               | 14.2        | 10.0          | 12.4                  |
| 17                       | 13               | 12.3        | 13.0          | 5.9                   |
| 18                       | 15               | 13.1        | 10.0          | 10.7                  |
| 19                       | 25               | 9.6         | 9.0           | 5.4                   |
| 20                       | 159              | 13.8        | 10.0          | 15.2                  |
| 21                       | 5                | 9.8         | 5.0           | 9.0                   |
| 22                       | 25               | 9.9         | 10.0          | 5.2                   |
| 23                       | 6                | 16.8        | 14.5          | 8.4                   |
| 24                       | 18               | 13.8        | 15.0          | 6.1                   |
| 25                       | 9                | 16.9        | 10.0          | 20.5                  |
| 26                       | 13               | 18.4        | 13.0          | 13.3                  |
| 27                       | 8                | 10.5        | 8.0           | 6.6                   |
| 28                       | 7                | 19.1        | 13.0          | 13.5                  |
| 29                       | 5                | 34.6        | 15.0          | 38.5                  |
| 30                       | 61               | 17.6        | 11.0          | 20.7                  |
| 31                       | 2                | 3.5         | 3.5           | 0.7                   |
| JD Not Given             | 195              | 9.4         | 7.2           | 8.5                   |
| Statewide                | 988              | 12.8        | 10.0          | 12.1                  |

**Table 21: Calendar Year - 2002: Percentage Awarded for Permanent Partial Disability  
Body as a Whole Injuries - Employee Did Not Return to Work for Pre-Injury Employer**

| Judicial District | Frequency | Mean | Median | Std. Deviation |
|-------------------|-----------|------|--------|----------------|
| 1                 | 33        | 33.1 | 30.0   | 17.2           |
| 2                 | 22        | 40.8 | 35.0   | 27.5           |
| 3                 | 34        | 35.2 | 30.0   | 25.7           |
| 4                 | 35        | 38.9 | 37.0   | 27.1           |
| 5                 | 13        | 29.0 | 20.0   | 23.5           |
| 6                 | 66        | 32.6 | 26.5   | 21.8           |
| 7                 | 14        | 34.7 | 28.3   | 24.1           |
| 8                 | 39        | 49.2 | 50.0   | 23.2           |
| 9                 | 18        | 45.7 | 41.5   | 29.9           |
| 10                | 43        | 43.4 | 40.0   | 27.3           |
| 11                | 110       | 34.9 | 30.3   | 24.1           |
| 12                | 17        | 63.0 | 75.0   | 32.6           |
| 13                | 17        | 48.3 | 45.0   | 27.5           |
| 14                | 12        | 28.0 | 20.0   | 27.2           |
| 15                | 13        | 38.3 | 25.0   | 26.5           |
| 16                | 52        | 34.5 | 31.5   | 21.5           |
| 17                | 15        | 41.5 | 32.5   | 29.8           |
| 18                | 22        | 42.7 | 34.8   | 30.1           |
| 19                | 29        | 34.7 | 37.5   | 19.7           |
| 20                | 191       | 32.3 | 23.3   | 25.2           |
| 21                | 6         | 30.1 | 19.9   | 27.5           |
| 22                | 29        | 35.6 | 30.0   | 19.7           |
| 23                | 6         | 48.4 | 43.1   | 25.6           |
| 24                | 27        | 45.2 | 40.0   | 31.0           |
| 25                | 12        | 34.6 | 25.0   | 27.3           |
| 26                | 23        | 23.8 | 20.0   | 18.9           |
| 27                | 17        | 35.3 | 25.0   | 26.7           |
| 28                | 10        | 48.0 | 43.3   | 30.4           |
| 29                | 7         | 41.8 | 37.8   | 31.5           |
| 30                | 70        | 31.5 | 26.7   | 19.7           |
| 31                | 2         | 13.0 | 13.0   | 4.2            |
|                   |           |      |        |                |
| JD Not Given      | 236       | 25.9 | 21.5   | 18.3           |
|                   |           |      |        |                |
| Statewide         | 1240      | 34.4 | 27.4   | 24.4           |

**Table 22: Calendar Year - 2002: Permanent Partial Disability Multipliers - Body as a Whole Injuries - Employee Did Not Return to Work for Pre-Injury Employer**

| Judicial District | Frequency | Mean | Median | Std. Deviation |
|-------------------|-----------|------|--------|----------------|
| 1                 | 25        | 2.9  | 2.9    | 1.2            |
| 2                 | 16        | 3.2  | 2.9    | 1.1            |
| 3                 | 27        | 3.3  | 3.3    | 1.6            |
| 4                 | 25        | 3.6  | 3.0    | 1.2            |
| 5                 | 10        | 3.4  | 3.9    | 1.5            |
| 6                 | 52        | 3.4  | 3.2    | 1.4            |
| 7                 | 9         | 3.4  | 2.6    | 3.2            |
| 8                 | 26        | 3.7  | 3.4    | 1.8            |
| 9                 | 14        | 3.9  | 3.9    | 2.0            |
| 10                | 34        | 3.2  | 3.0    | 1.8            |
| 11                | 90        | 3.4  | 3.1    | 2.1            |
| 12                | 12        | 4.9  | 4.9    | 1.8            |
| 13                | 16        | 3.1  | 3.3    | 2.0            |
| 14                | 10        | 3.2  | 3.0    | 6.6            |
| 15                | 9         | 3.6  | 3.0    | 2.5            |
| 16                | 39        | 3.3  | 3.1    | 2.5            |
| 17                | 13        | 3.8  | 3.0    | 1.4            |
| 18                | 15        | 4.8  | 3.8    | 1.0            |
| 19                | 25        | 3.9  | 3.3    | 1.4            |
| 20                | 158       | 2.9  | 2.7    | 1.2            |
| 21                | 5         | 3.1  | 3.3    | 1.7            |
| 22                | 25        | 3.9  | 3.6    | 1.5            |
| 23                | 6         | 3.0  | 3.1    | 1.3            |
| 24                | 18        | 3.1  | 3.2    | 1.2            |
| 25                | 9         | 2.7  | 3.0    | 1.8            |
| 26                | 13        | 2.2  | 1.8    | 1.7            |
| 27                | 8         | 3.3  | 3.3    | 1.6            |
| 28                | 7         | 2.0  | 2.4    | 1.4            |
| 29                | 5         | 1.8  | 2.2    | 0.9            |
| 30                | 60        | 2.4  | 2.1    | 2.1            |
| 31                | 2         | 3.7  | 3.7    | 1.1            |
|                   |           |      |        |                |
| JD Not Given      | 193       | 3.1  | 3.0    | 1.5            |
|                   |           |      |        |                |
| Statewide         | 976       | 3.2  | 3.0    | 1.8            |

**Table 23: Calendar Year - 2002: Permanent Partial Disability - Monetary Benefits - Body as a Whole Injuries - Employee Did Not Return to Work for Pre-Injury Employer**

| Judicial District | Frequency | Mean        | Median      | Std. Deviation |
|-------------------|-----------|-------------|-------------|----------------|
| 1                 | 32        | \$42,418.82 | \$30,133.08 | \$32,850.12    |
| 2                 | 19        | \$47,059.76 | \$32,755.20 | \$45,064.80    |
| 3                 | 29        | \$44,783.18 | \$31,778.00 | \$37,954.60    |
| 4                 | 30        | \$34,266.06 | \$26,317.74 | \$23,174.22    |
| 5                 | 11        | \$52,173.07 | \$18,132.80 | \$49,934.28    |
| 6                 | 56        | \$40,392.19 | \$30,449.20 | \$28,706.35    |
| 7                 | 13        | \$41,975.53 | \$28,154.28 | \$36,910.38    |
| 8                 | 37        | \$44,221.88 | \$37,000.00 | \$24,887.17    |
| 9                 | 17        | \$70,137.69 | \$55,612.80 | \$53,501.62    |
| 10                | 34        | \$47,530.02 | \$40,174.00 | \$32,104.59    |
| 11                | 105       | \$45,958.26 | \$31,254.84 | \$39,374.93    |
| 12                | 16        | \$95,181.19 | \$72,168.00 | \$82,709.06    |
| 13                | 17        | \$66,960.43 | \$47,069.64 | \$59,534.08    |
| 14                | 10        | \$31,415.34 | \$20,795.00 | \$35,940.20    |
| 15                | 12        | \$50,213.09 | \$39,579.76 | \$33,495.12    |
| 16                | 41        | \$62,354.62 | \$45,759.60 | \$48,910.46    |
| 17                | 13        | \$63,797.20 | \$54,823.00 | \$45,919.39    |
| 18                | 20        | \$45,703.67 | \$32,849.80 | \$44,609.15    |
| 19                | 29        | \$52,677.93 | \$48,154.40 | \$36,312.47    |
| 20                | 172       | \$41,738.46 | \$31,890.60 | \$36,157.02    |
| 21                | 5         | \$21,725.75 | \$15,506.40 | \$20,887.58    |
| 22                | 25        | \$45,912.31 | \$34,800.00 | \$35,895.00    |
| 23                | 5         | \$63,242.40 | \$65,664.00 | \$41,368.79    |
| 24                | 24        | \$50,927.81 | \$46,000.00 | \$34,499.87    |
| 25                | 12        | \$32,434.63 | \$29,173.13 | \$25,832.79    |
| 26                | 19        | \$36,365.31 | \$21,000.00 | \$39,823.80    |
| 27                | 16        | \$41,349.88 | \$22,237.10 | \$43,022.17    |
| 28                | 8         | \$52,311.10 | \$42,907.00 | \$40,878.41    |
| 29                | 6         | \$57,200.68 | \$39,322.09 | \$51,121.85    |
| 30                | 61        | \$42,165.03 | \$32,759.20 | \$32,690.30    |
| 31                | 2         | \$16,471.00 | \$16,471.00 | \$3,576.55     |
|                   |           |             |             |                |
| JD Not Given      | 219       | \$31,393.74 | \$24,045.12 | \$28,612.48    |
|                   |           |             |             |                |
| Statewide         | 1115      | \$43,581.31 | \$31,336.00 | \$38,071.78    |

## ARM INJURIES - EMPLOYEE RETURNED TO PRE- INJURY EMPLOYMENT

### PERMANENT PARTIAL IMPAIRMENT RATINGS

Average PPI ratings for cases concluding in 2002 involving an injury to the arm where the injured worker returned to work are listed in Table 24. The statewide mean PPI rating is 8.2% to the arm. The data ranges from 4.0% in Judicial District 21 to 17.2% in Judicial District 29. Differences between judicial districts are statistically significant.<sup>30</sup> Some potential reasons for differences in PPI ratings between judicial districts are the doctors involved in the cases and the parties that hire them, differences in injury and industry mixes and differences related to rural compared to urban areas. Mean PPI ratings increased 4.4% from 2000 to 2001 then decreased almost 14% from 2001 to 2002.

### PERMANENT PARTIAL DISABILITY PERCENTAGE

The average PPD percentage for 2002 return to work (for pre-injury employer) arm cases are listed in Table 25. The statewide mean is 19.0% to the arm (38 weeks) with a range of 13.0% (26 weeks) in Judicial District 21 to 37.1% (74 weeks) in Judicial District 1. Differences between judicial districts are statistically significant.<sup>31</sup> PPD percentages increased at a rate of 2.3% from 2000 to 2001 then decreased by 9.8% from 2001 to 2002.

### PERMANENT PARTIAL DISABILITY MULTIPLIERS

Table 26 lists the average PPD multiplier for cases concluded in 2002 involving arm injuries where the injured worker returned to work. The statewide mean multiplier is 2.8 with a range from 2.1 in Judicial Districts 14, 27 and 29 to 5.0 in Judicial District 9. Cases were selected for analysis only if PPI ratings and PPD judgment/settlement percentages were listed as injuries to the arm on

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<sup>30</sup>  $p < .01$  Kruskal Wallis Test

<sup>31</sup>  $p < .01$  Kruskal Wallis Test

SD-1 forms. Differences between judicial districts are statistically significant.<sup>32</sup> The multiplier has remained virtually constant for the three years analyzed.

#### PERMANENT PARTIAL DISABILITY MONETARY AMOUNTS

Table 27 displays the average PPD monetary amounts paid in return to work arm cases for 2002. The mean amount paid for return to work arm cases is \$17,392.26 with a range of \$11,387.67 in Judicial District 12 to \$32,716.98 in Judicial District 23. Mean PPD judgment/settlement amounts increased at a rate between 8% and 9% per year from 2000 to 2002.

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<sup>32</sup>  $p < .01$  Kruskal Wallis Test

**Table 24: Calendar Year - 2002: Permanent Partial Impairment - Arm Injuries - Employee Returned to Work for Pre-Injury Employer**

| <b>Judicial District</b> | <b>Frequency</b> | <b>Mean</b> | <b>Median</b> | <b>Std. Deviation</b> |
|--------------------------|------------------|-------------|---------------|-----------------------|
| 1                        | 9                | 13.7        | 12.0          | 12.0                  |
| 2                        | 12               | 9.8         | 9.0           | 7.2                   |
| 3                        | 10               | 8.4         | 5.0           | 5.9                   |
| 4                        | 13               | 9.0         | 8.0           | 4.5                   |
| 5                        | 10               | 10.6        | 10.0          | 5.5                   |
| 6                        | 43               | 8.7         | 5.0           | 9.1                   |
| 7                        | 23               | 10.3        | 5.0           | 11.5                  |
| 8                        | 8                | 10.9        | 8.0           | 11.5                  |
| 9                        | 15               | 6.3         | 5.0           | 7.8                   |
| 10                       | 27               | 9.7         | 7.0           | 10.3                  |
| 11                       | 59               | 9.2         | 6.5           | 12.2                  |
| 12                       | 16               | 7.5         | 6.0           | 5.3                   |
| 13                       | 9                | 11.7        | 10.0          | 9.2                   |
| 14                       | 6                | 7.5         | 7.5           | 4.1                   |
| 15                       | 12               | 6.3         | 5.0           | 5.4                   |
| 16                       | 72               | 4.9         | 4.0           | 4.3                   |
| 17                       | 9                | 8.0         | 5.0           | 5.6                   |
| 18                       | 7                | 8.7         | 7.0           | 6.1                   |
| 19                       | 24               | 8.5         | 5.7           | 6.2                   |
| 20                       | 168              | 7.6         | 5.0           | 7.8                   |
| 21                       | 2                | 4.0         | 4.0           | 2.8                   |
| 22                       | 15               | 5.4         | 5.0           | 3.5                   |
| 23                       | 8                | 12.3        | 7.7           | 14.3                  |
| 24                       | 31               | 10.6        | 10.0          | 6.4                   |
| 25                       | 17               | 12.3        | 10.0          | 11.0                  |
| 26                       | 45               | 9.3         | 10.0          | 6.3                   |
| 27                       | 23               | 10.2        | 10.0          | 5.0                   |
| 28                       | 24               | 13.8        | 10.0          | 15.2                  |
| 29                       | 9                | 17.2        | 15.0          | 12.2                  |
| 30                       | 38               | 10.4        | 9.5           | 7.8                   |
| 31                       | 11               | 7.0         | 5.0           | 4.8                   |
| JD Not Given             | 314              | 6.7         | 5.0           | 6.0                   |
| Statewide                | 1089             | 8.2         | 5.0           | 7.9                   |

**Table 25: Calendar Year - 2002: Percentage Awarded for Permanent Partial Disability - Arm Injuries - Employee Returned to Work for Pre-Injury Employer**

| Judicial District | Frequency | Mean | Median | Std. Deviation |
|-------------------|-----------|------|--------|----------------|
| 1                 | 9         | 37.1 | 35.0   | 32.8           |
| 2                 | 12        | 25.0 | 18.0   | 17.3           |
| 3                 | 10        | 18.9 | 13.3   | 17.3           |
| 4                 | 13        | 30.2 | 21.5   | 14.7           |
| 5                 | 10        | 33.2 | 31.0   | 15.9           |
| 6                 | 43        | 19.2 | 15.0   | 12.6           |
| 7                 | 23        | 28.5 | 27.5   | 23.5           |
| 8                 | 8         | 30.3 | 20.5   | 21.2           |
| 9                 | 15        | 19.6 | 20.0   | 6.0            |
| 10                | 27        | 23.7 | 12.0   | 15.6           |
| 11                | 59        | 22.5 | 15.5   | 16.3           |
| 12                | 16        | 23.8 | 20.9   | 23.5           |
| 13                | 9         | 31.6 | 33.8   | 20.8           |
| 14                | 6         | 15.6 | 12.2   | 20.4           |
| 15                | 12        | 18.4 | 20.0   | 16.1           |
| 16                | 72        | 14.4 | 11.7   | 12.2           |
| 17                | 9         | 20.9 | 12.5   | 22.3           |
| 18                | 7         | 28.4 | 27.0   | 10.1           |
| 19                | 24        | 22.5 | 20.6   | 11.4           |
| 20                | 168       | 15.3 | 12.5   | 15.8           |
| 21                | 2         | 13.0 | 13.0   | 17.0           |
| 22                | 15        | 14.9 | 15.0   | 13.5           |
| 23                | 8         | 22.7 | 17.4   | 10.6           |
| 24                | 31        | 26.4 | 25.0   | 10.8           |
| 25                | 17        | 24.3 | 20.8   | 20.9           |
| 26                | 45        | 18.4 | 19.7   | 17.3           |
| 27                | 23        | 17.9 | 20.0   | 11.2           |
| 28                | 24        | 25.0 | 24.3   | 12.0           |
| 29                | 9         | 30.2 | 21.6   | 15.1           |
| 30                | 38        | 23.1 | 20.0   | 17.7           |
| 31                | 11        | 22.5 | 23.0   | 13.6           |
|                   |           |      |        |                |
| JD Not Given      | 314       | 15.1 | 12.0   | 17.7           |
|                   |           |      |        |                |
| Statewide         | 1089      | 19.0 | 15.0   | 16.8           |

**Table 26: Calendar Year - 2002: Permanent Partial Disability Multipliers - Arm Injuries - Employee Returned to Work for Pre-Injury Employer**

| Judicial District | Frequency | Mean | Median | Std. Deviation |
|-------------------|-----------|------|--------|----------------|
| 1                 | 9         | 3.0  | 3.0    | 1.0            |
| 2                 | 12        | 2.6  | 2.5    | 0.8            |
| 3                 | 10        | 2.6  | 2.0    | 1.5            |
| 4                 | 13        | 3.5  | 3.4    | 1.5            |
| 5                 | 10        | 3.4  | 3.1    | 1.8            |
| 6                 | 43        | 3.1  | 2.5    | 2.1            |
| 7                 | 23        | 4.5  | 3.3    | 3.3            |
| 8                 | 8         | 4.2  | 3.6    | 3.0            |
| 9                 | 15        | 5.0  | 3.7    | 3.4            |
| 10                | 27        | 2.6  | 2.4    | 1.3            |
| 11                | 59        | 3.0  | 3.0    | 1.7            |
| 12                | 16        | 4.3  | 3.4    | 3.0            |
| 13                | 9         | 2.9  | 2.6    | 1.6            |
| 14                | 6         | 2.1  | 2.0    | 0.3            |
| 15                | 12        | 3.5  | 3.8    | 1.8            |
| 16                | 70        | 3.2  | 2.9    | 1.3            |
| 17                | 9         | 2.8  | 3.0    | 0.6            |
| 18                | 7         | 3.6  | 3.9    | 2.5            |
| 19                | 24        | 3.6  | 3.6    | 1.7            |
| 20                | 168       | 2.4  | 2.0    | 1.2            |
| 21                | 2         | 2.5  | 2.5    | 0.4            |
| 22                | 15        | 3.1  | 3.0    | 1.4            |
| 23                | 8         | 3.7  | 4.1    | 1.3            |
| 24                | 31        | 3.0  | 2.5    | 1.9            |
| 25                | 17        | 2.9  | 2.3    | 2.7            |
| 26                | 45        | 2.6  | 2.0    | 1.9            |
| 27                | 23        | 2.1  | 2.0    | 0.8            |
| 28                | 24        | 2.9  | 2.5    | 1.8            |
| 29                | 9         | 2.1  | 1.9    | 1.1            |
| 30                | 38        | 2.8  | 2.5    | 1.4            |
| 31                | 11        | 3.9  | 3.9    | 3.1            |
| JD Not Given      | 313       | 2.5  | 2.4    | 1.2            |
| Statewide         | 1086      | 2.8  | 2.5    | 1.7            |

**Table 27: Calendar Year - 2002: Permanent Partial Disability - Monetary Benefits - Arm Injuries - Employee Returned to Work for Pre-Injury Employer**

| <b>Judicial District</b> | <b>Frequency</b> | <b>Mean</b> | <b>Median</b> | <b>Std. Deviation</b> |
|--------------------------|------------------|-------------|---------------|-----------------------|
| 1                        | 10               | \$19,454.61 | \$19,651.60   | \$13,827.89           |
| 2                        | 12               | \$11,831.44 | \$9,558.03    | \$8,432.65            |
| 3                        | 14               | \$23,135.56 | \$12,217.70   | \$27,509.93           |
| 4                        | 13               | \$23,457.89 | \$15,500.00   | \$19,464.82           |
| 5                        | 12               | \$17,343.77 | \$12,944.62   | \$12,786.70           |
| 6                        | 44               | \$16,750.47 | \$15,511.80   | \$12,855.73           |
| 7                        | 24               | \$29,863.53 | \$24,965.65   | \$19,899.83           |
| 8                        | 8                | \$16,161.50 | \$17,682.66   | \$11,415.31           |
| 9                        | 12               | \$12,321.64 | \$8,960.19    | \$10,555.98           |
| 10                       | 30               | \$22,192.40 | \$11,031.00   | \$23,412.33           |
| 11                       | 67               | \$15,018.76 | \$10,698.30   | \$12,233.53           |
| 12                       | 19               | \$11,387.67 | \$10,560.00   | \$6,510.90            |
| 13                       | 8                | \$21,849.81 | \$26,317.24   | \$13,973.39           |
| 14                       | 9                | \$20,110.59 | \$14,000.00   | \$19,472.83           |
| 15                       | 12               | \$20,670.25 | \$15,362.25   | \$12,552.14           |
| 16                       | 80               | \$18,203.02 | \$12,302.00   | \$18,502.17           |
| 17                       | 12               | \$16,569.72 | \$11,825.00   | \$15,443.71           |
| 18                       | 6                | \$21,063.78 | \$19,010.75   | \$15,098.69           |
| 19                       | 26               | \$20,128.69 | \$18,750.00   | \$14,831.35           |
| 20                       | 168              | \$21,045.16 | \$10,925.00   | \$95,417.65           |
| 21                       | 2                | \$25,156.30 | \$25,156.30   | \$22,406.38           |
| 22                       | 18               | \$14,147.54 | \$13,669.80   | \$8,186.60            |
| 23                       | 11               | \$32,716.98 | \$26,585.60   | \$19,235.44           |
| 24                       | 29               | \$23,332.67 | \$19,500.00   | \$13,455.66           |
| 25                       | 18               | \$16,575.63 | \$16,267.00   | \$10,063.86           |
| 26                       | 44               | \$17,537.94 | \$13,016.95   | \$14,261.92           |
| 27                       | 21               | \$15,894.35 | \$15,333.50   | \$7,542.21            |
| 28                       | 22               | \$27,346.61 | \$23,658.50   | \$18,272.21           |
| 29                       | 10               | \$18,022.07 | \$14,006.42   | \$12,821.63           |
| 30                       | 40               | \$23,768.55 | \$20,644.67   | \$15,954.91           |
| 31                       | 11               | \$25,076.33 | \$23,569.20   | \$17,003.26           |
| JD Not Given             | 342              | \$11,929.54 | \$8,994.32    | \$10,590.35           |
| Statewide                | 1154             | \$17,392.26 | \$11,994.74   | \$38,811.45           |

## **ARM INJURIES - EMPLOYEE DID NOT RETURN TO PRE-INJURY EMPLOYMENT**

### **PERMANENT PARTIAL IMPAIRMENT RATINGS**

The average PPI ratings for calendar year 2002 arm cases in which the employee did not return to work for the pre-injury employer are listed in Table 28. The data ranges from 5.0% PPI to the arm in Judicial Districts 7, 23 and 25 to 37.0% in Judicial District 2 with a statewide mean of 10.6%. Due to the small number of cases in each district, significance tests comparing judicial district averages were not performed on any of the data sets for no return to work arm cases. (Also due to the small number of cases, the ranges can appear more extreme, thus the reader is encouraged to look at the number of cases that comprise district averages before making too broad of a comparison.) Mean PPI rating for no return to work arm cases decreased 11.1% from 2000 to 2001 and 8.3% from 2001 to 2002.

### **PERMANENT PARTIAL DISABILITY PERCENTAGE**

Average PPD percentages for cases that involved arm injuries where the worker did not return to work for the pre-injury employer are listed in Table 29 for cases closed in 2002. The mean PPD percentage is 28.7% to the arm (57.4 weeks) with a range of 20.2% (40.4 weeks) in Judicial District 17 to 46.7% (93.4 weeks) in Judicial District 2. PPD judgment/settlement amounts decreased 5.5% from 2000 to 2001 then increased slightly (0.4%) from 2001 to 2002.

### **PERMANENT PARTIAL DISABILITY MULTIPLIERS**

Table 30 lists the average PPD multipliers for no return to work arm cases concluded in 2002. The statewide mean multiplier is 3.5 with a range of 1.9 in Judicial Districts 2 and 27 to 6.5 in Judicial District 7. PPD multipliers for cases involving arm injuries where the worker did not return to work have increased from 3.2 in 2000 to 3.5 in 2002, or 2.4% from 2000 to 2001 and 6.8% from 2001 to

2002.

#### PERMANENT PARTIAL DISABILITY MONETARY AMOUNTS

Table 31 displays average PPD monetary benefits paid for no return to work arm cases concluded in 2002. The mean dollar amount paid is \$23,943.46, up 21.6% from 2001 cases. Mean PPD amounts range of \$14,039.00 in Judicial District 25 to \$64,367.29 in Judicial District 9. PPD monetary benefits paid for no return to work arm cases decreased slightly (2.4%) from 2000 to 2001.

**Table 28: Calendar Year - 2002: Permanent Partial Impairment - Arm Injuries - Employee Did Not Return to Work for Pre-Injury Employer**

| Judicial District | Frequency | Mean | Median | Std. Deviation |
|-------------------|-----------|------|--------|----------------|
| 1                 | 6         | 11.7 | 8.0    | 12.2           |
| 2                 | 2         | 37.0 | 37.0   | 33.9           |
| 3                 | 6         | 9.9  | 8.0    | 8.0            |
| 4                 | 4         | 10.5 | 10.0   | 8.4            |
| 5                 | 4         | 17.5 | 12.5   | 16.6           |
| 6                 | 8         | 8.8  | 5.0    | 6.6            |
| 7                 | 2         | 5.0  | 5.0    | 0.0            |
| 8                 | 4         | 14.8 | 11.0   | 12.8           |
| 9                 | 2         | 9.5  | 9.5    | 0.7            |
| 10                | 11        | 16.8 | 10.5   | 14.8           |
| 11                | 20        | 8.8  | 9.0    | 6.4            |
| 12                | 8         | 11.6 | 6.3    | 10.5           |
| 13                | 5         | 10.3 | 12.0   | 3.3            |
| 14                | 1         | 10.0 | 10.0   |                |
| 15                | 6         | 6.8  | 5.5    | 3.9            |
| 16                | 18        | 11.2 | 9.7    | 9.5            |
| 17                | 4         | 8.0  | 7.5    | 3.6            |
| 18                | 10        | 10.1 | 8.5    | 5.4            |
| 19                | 7         | 6.9  | 6.0    | 3.0            |
| 20                | 43        | 10.4 | 5.5    | 10.2           |
| 21                | 4         | 18.4 | 19.5   | 6.1            |
| 22                | 2         | 11.0 | 11.0   | 8.5            |
| 23                | 1         | 5.0  | 5.0    |                |
| 24                | 12        | 14.1 | 13.3   | 10.1           |
| 25                | 1         | 5.0  | 5.0    |                |
| 26                | 12        | 18.4 | 16.0   | 14.5           |
| 27                | 3         | 10.5 | 10.0   | 3.8            |
| 28                | 6         | 13.0 | 10.0   | 6.4            |
| 29                | 4         | 7.4  | 8.3    | 3.4            |
| 30                | 11        | 10.4 | 7.0    | 8.5            |
| 31                | 7         | 5.6  | 5.0    | 3.5            |
| JD Not Given      | 51        | 7.2  | 5.0    | 9.1            |
| Statewide         | 285       | 10.6 | 7.5    | 9.8            |

**Table 29: Calendar Year - 2002: Percentage Awarded for Permanent Partial Disability - Arm Injuries - Employee Did Not Return to Work for Pre-Injury Employer**

| Judicial District | Frequency | Mean | Median | Std. Deviation |
|-------------------|-----------|------|--------|----------------|
| 1                 | 6         | 34.8 | 18.0   | 27.9           |
| 2                 | 2         | 46.7 | 46.7   |                |
| 3                 | 6         | 28.4 | 19.5   | 15.9           |
| 4                 | 4         | 32.8 | 30.6   | 35.0           |
| 5                 | 4         | 32.0 | 30.0   | 59.4           |
| 6                 | 8         | 28.2 | 18.8   | 24.0           |
| 7                 | 2         | 32.5 | 32.5   | 7.3            |
| 8                 | 4         | 46.1 | 42.1   | 12.3           |
| 9                 | 2         | 35.5 | 35.5   | 12.6           |
| 10                | 11        | 41.0 | 26.0   | 10.8           |
| 11                | 20        | 29.0 | 23.0   | 14.6           |
| 12                | 8         | 32.4 | 30.0   | 24.1           |
| 13                | 5         | 39.7 | 31.0   | 19.5           |
| 14                | 1         | 30.0 | 30.0   | 1.3            |
| 15                | 6         | 27.1 | 28.3   | 13.7           |
| 16                | 18        | 26.2 | 20.3   | 13.2           |
| 17                | 4         | 20.2 | 21.5   | 14.8           |
| 18                | 10        | 37.3 | 36.3   | 11.9           |
| 19                | 7         | 20.7 | 18.0   | 20.3           |
| 20                | 43        | 26.0 | 18.0   | 18.8           |
| 21                | 4         | 38.6 | 39.0   |                |
| 22                | 2         | 26.5 | 26.5   | 33.4           |
| 23                | 1         | 20.0 | 20.0   |                |
| 24                | 12        | 28.9 | 28.6   | 6.3            |
| 25                | 1         | 30.0 | 30.0   | 5.1            |
| 26                | 12        | 43.3 | 33.8   | 20.1           |
| 27                | 3         | 30.0 | 20.0   | 20.3           |
| 28                | 6         | 26.7 | 25.0   | 15.3           |
| 29                | 4         | 20.7 | 21.3   | 14.2           |
| 30                | 11        | 28.8 | 18.7   | 14.2           |
| 31                | 7         | 23.8 | 20.0   | 15.5           |
|                   |           |      |        |                |
| JD Not Given      | 51        | 21.2 | 17.5   | 20.8           |
|                   |           |      |        |                |
| Statewide         | 285       | 28.7 | 22.0   | 19.6           |

**Table 30: Calendar Year - 2002: Permanent Partial Disability Multipliers - Arm Injuries - Employee Did Not Return to Work for Pre-Injury Employer**

| Judicial District | Frequency | Mean | Median | Std. Deviation |
|-------------------|-----------|------|--------|----------------|
| 1                 | 6         | 3.5  | 3.0    | 1.8            |
| 2                 | 2         | 1.9  | 1.9    |                |
| 3                 | 6         | 2.9  | 2.8    | 2.7            |
| 4                 | 4         | 3.3  | 3.2    | 1.9            |
| 5                 | 4         | 4.6  | 4.8    | 1.4            |
| 6                 | 8         | 3.4  | 3.6    | 3.4            |
| 7                 | 2         | 6.5  | 6.5    | 2.7            |
| 8                 | 4         | 4.1  | 4.1    | 1.2            |
| 9                 | 2         | 3.8  | 3.8    | 2.0            |
| 10                | 11        | 3.3  | 3.0    | 3.4            |
| 11                | 20        | 4.1  | 3.5    | 1.7            |
| 12                | 8         | 4.2  | 3.5    | 1.2            |
| 13                | 5         | 4.5  | 5.4    | 1.5            |
| 14                | 1         | 3.0  | 3.0    | 0.9            |
| 15                | 6         | 5.7  | 3.4    | 3.8            |
| 16                | 18        | 2.9  | 2.9    | 1.9            |
| 17                | 4         | 2.9  | 2.5    | 1.5            |
| 18                | 10        | 4.2  | 4.3    | 0.7            |
| 19                | 7         | 3.6  | 3.2    | 1.1            |
| 20                | 43        | 3.1  | 2.7    | 1.1            |
| 21                | 4         | 2.3  | 2.2    |                |
| 22                | 2         | 3.5  | 3.5    | 1.7            |
| 23                | 1         | 4.0  | 4.0    |                |
| 24                | 12        | 3.8  | 2.6    | 1.3            |
| 25                | 1         | 6.0  | 6.0    | 1.1            |
| 26                | 12        | 2.5  | 2.6    | 1.3            |
| 27                | 3         | 1.9  | 2.0    | 3.1            |
| 28                | 6         | 2.2  | 2.0    | 1.5            |
| 29                | 4         | 4.2  | 3.8    | 1.5            |
| 30                | 11        | 2.9  | 3.5    | 1.2            |
| 31                | 7         | 5.8  | 4.0    | 1.3            |
| JD Not Given      | 51        | 3.6  | 3.4    | 1.7            |
| Statewide         | 285       | 3.5  | 3.0    | 2.0            |

**Table 31: Calendar Year - 2002: Permanent Partial Disability - Monetary Benefits - Arm Injuries - Employee Did Not Return to Work for Pre-Injury Employer**

| Judicial District | Frequency | Mean        | Median      | Std. Deviation |
|-------------------|-----------|-------------|-------------|----------------|
| 1                 | 7         | \$18,098.08 | \$14,500.00 | \$14,435.61    |
| 2                 | 5         | \$53,955.21 | \$60,000.00 | \$36,439.08    |
| 3                 | 8         | \$20,275.17 | \$17,112.48 | \$13,032.57    |
| 4                 | 3         | \$28,375.10 | \$22,500.00 | \$25,046.72    |
| 5                 | 6         | \$36,241.61 | \$19,748.90 | \$29,838.56    |
| 6                 | 12        | \$19,356.34 | \$12,858.15 | \$17,335.32    |
| 7                 | 1         | \$32,342.40 | \$32,342.40 |                |
| 8                 | 4         | \$27,358.50 | \$21,378.25 | \$21,805.26    |
| 9                 | 3         | \$64,367.29 | \$29,080.10 | \$68,594.35    |
| 10                | 14        | \$24,775.58 | \$21,781.10 | \$20,514.30    |
| 11                | 22        | \$16,904.04 | \$13,654.72 | \$13,021.49    |
| 12                | 7         | \$24,134.65 | \$22,500.00 | \$10,384.54    |
| 13                | 5         | \$36,646.80 | \$41,716.08 | \$16,739.78    |
| 14                | 1         | \$18,854.40 | \$18,854.40 |                |
| 15                | 6         | \$26,158.21 | \$23,667.50 | \$13,518.18    |
| 16                | 17        | \$46,551.24 | \$27,836.60 | \$51,013.00    |
| 17                | 4         | \$14,949.34 | \$14,716.00 | \$9,584.03     |
| 18                | 12        | \$33,853.60 | \$27,429.00 | \$18,940.45    |
| 19                | 9         | \$32,589.93 | \$17,122.04 | \$28,703.86    |
| 20                | 48        | \$22,064.41 | \$18,977.00 | \$21,708.23    |
| 21                | 5         | \$39,668.31 | \$20,009.60 | \$30,601.86    |
| 22                | 4         | \$18,930.63 | \$12,238.25 | \$20,460.25    |
| 23                | 1         | \$5,408.40  | \$5,408.40  |                |
| 24                | 11        | \$20,959.27 | \$17,779.50 | \$10,859.54    |
| 25                | 2         | \$14,039.00 | \$14,039.00 | \$2,883.58     |
| 26                | 12        | \$26,459.55 | \$23,750.00 | \$16,501.92    |
| 27                | 2         | \$27,145.20 | \$27,145.20 | \$20,300.75    |
| 28                | 7         | \$16,677.29 | \$16,384.00 | \$6,176.65     |
| 29                | 4         | \$18,165.45 | \$17,205.25 | \$9,234.57     |
| 30                | 12        | \$19,383.49 | \$10,857.88 | \$18,083.49    |
| 31                | 7         | \$22,337.95 | \$23,000.00 | \$5,613.17     |
| JD Not Given      | 51        | \$13,669.59 | \$10,000.00 | \$12,436.32    |
| Statewide         | 312       | \$23,943.46 | \$17,889.75 | \$23,229.71    |

## LEG INJURIES - EMPLOYEE RETURNED TO PRE-INJURY EMPLOYMENT

### PERMANENT PARTIAL IMPAIRMENT RATINGS

Average highest PPI ratings for 2002 cases involving a leg injury where the employee returned to work for the pre-injury employer are listed in Table 32. The statewide mean PPI rating is 8.6% to the leg with a range of 6.4% in Judicial District 1 to 22.5% in Judicial District 13. Differences between judicial districts are statistically significant.<sup>33</sup> For leg injury cases where the injured worker returned to work, PPI ratings decreased at a rate of 4.1% from 2000 to 2001 and 7.5% from 2001 to 2002.

### PERMANENT PARTIAL DISABILITY PERCENTAGE

The data for average PPD percentage for judgments and settlements for 2002 return to work leg injury cases range from 16.9% (33.8 weeks) to the leg in Judicial District 1 to 52.9% (105.8 weeks) in Judicial District 8 and can be found in Table 33. The statewide mean is 20.7% to the leg (41.4 weeks). Differences between judicial districts are statistically significant.<sup>34</sup> PPD percentage amounts for return to work leg cases have decreased 2.3% from 2000 to 2001 and 3.1% from 2001 to 2002.

### PERMANENT PARTIAL DISABILITY MULTIPLIERS

Table 34 lists the average PPD multipliers for 2002 return to work leg injury cases. Only cases in which the PPI rating and the PPD percentage were attributable to the leg are included in the analysis. The statewide mean PPD multiplier is 2.7 with a range of 1.5 in Judicial District 25 to 5.2 in Judicial District 8. Differences between judicial districts are not statistically significant. There has been no change in PPD multipliers for return to work leg cases from 2000 to 2002.

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<sup>33</sup>  $p < .02$  Kruskal Wallis Test

<sup>34</sup>  $p < .01$  Kruskal Wallis Test

## PERMANENT PARTIAL DISABILITY MONETARY AMOUNTS

The statewide mean PPD monetary amount paid for 2002 return to work leg injury cases is \$15,548.29 with a range of \$9,116.19 in Judicial District 1 to \$44,020.20 in Judicial District 8. The average PPD monetary payments for all judicial districts for 2002 return to work leg injury cases are listed in Table 35. Monetary amounts paid for return to work leg cases have increased 4.0% from 2000 to 2001 and 10.0% from 2001 to 2002.

**Table 32: Calendar Year - 2002: Permanent Partial Impairment - Leg Injuries - Employee Returned to Work for Pre-Injury Employer**

| <b>Judicial District</b> | <b>Frequency</b> | <b>Mean</b> | <b>Median</b> | <b>Std. Deviation</b> |
|--------------------------|------------------|-------------|---------------|-----------------------|
| 1                        | 16               | 6.4         | 2.0           | 9.0                   |
| 2                        | 9                | 13.1        | 10.0          | 14.7                  |
| 3                        | 11               | 8.5         | 7.0           | 6.0                   |
| 4                        | 8                | 10.3        | 9.0           | 7.0                   |
| 5                        | 6                | 7.7         | 7.0           | 4.4                   |
| 6                        | 65               | 8.8         | 7.0           | 7.9                   |
| 7                        | 12               | 10.5        | 8.0           | 8.0                   |
| 8                        | 6                | 20.1        | 16.5          | 17.0                  |
| 9                        | 8                | 15.4        | 13.0          | 12.6                  |
| 10                       | 11               | 14.8        | 10.0          | 14.3                  |
| 11                       | 69               | 7.7         | 5.0           | 8.1                   |
| 12                       | 10               | 13.8        | 10.0          | 12.9                  |
| 13                       | 4                | 22.5        | 22.0          | 16.8                  |
| 14                       | 8                | 13.0        | 11.0          | 10.7                  |
| 15                       | 10               | 14.6        | 12.5          | 11.1                  |
| 16                       | 37               | 8.6         | 7.0           | 9.1                   |
| 17                       | 6                | 11.2        | 11.5          | 8.7                   |
| 18                       | 5                | 9.5         | 8.5           | 8.0                   |
| 19                       | 12               | 8.4         | 6.0           | 5.7                   |
| 20                       | 203              | 8.1         | 7.0           | 7.1                   |
| 21                       | 5                | 21.8        | 10.0          | 20.1                  |
| 22                       | 13               | 8.6         | 7.0           | 6.6                   |
| 23                       | 2                | 8.2         | 8.2           | 4.5                   |
| 24                       | 17               | 12.9        | 10.0          | 8.2                   |
| 25                       | 3                | 18.0        | 9.0           | 19.2                  |
| 26                       | 31               | 7.4         | 7.0           | 5.5                   |
| 27                       | 13               | 9.3         | 7.0           | 8.1                   |
| 28                       | 5                | 8.4         | 10.0          | 5.0                   |
| 29                       | 5                | 7.6         | 10.0          | 3.4                   |
| 30                       | 55               | 8.7         | 7.0           | 6.0                   |
| 31                       | 2                | 7.2         | 7.2           | 4.0                   |
| JD Not Given             | 408              | 7.7         | 7.0           | 6.3                   |
| Statewide                | 1075             | 8.6         | 7.0           | 7.8                   |

**Table 33: Calendar Year - 2002: Percentage Awarded for Permanent Partial Disability - Leg Injuries - Employee Returned to Work for Pre-Injury Employer**

| Judicial District | Frequency | Mean | Median | Std. Deviation |
|-------------------|-----------|------|--------|----------------|
| 1                 | 16        | 16.9 | 10.0   | 20.0           |
| 2                 | 9         | 17.1 | 18.0   | 11.5           |
| 3                 | 11        | 25.9 | 15.0   | 24.5           |
| 4                 | 8         | 34.7 | 35.8   | 13.9           |
| 5                 | 6         | 20.1 | 20.3   | 13.0           |
| 6                 | 65        | 23.5 | 15.0   | 17.1           |
| 7                 | 12        | 33.7 | 23.5   | 21.8           |
| 8                 | 6         | 52.9 | 57.5   | 11.7           |
| 9                 | 8         | 38.3 | 37.8   | 24.0           |
| 10                | 11        | 36.2 | 25.0   | 23.5           |
| 11                | 69        | 19.3 | 15.0   | 20.9           |
| 12                | 10        | 32.6 | 40.8   | 14.9           |
| 13                | 4         | 48.3 | 54.3   | 17.1           |
| 14                | 8         | 38.3 | 33.5   | 16.5           |
| 15                | 10        | 31.9 | 28.4   | 13.4           |
| 16                | 37        | 20.7 | 17.0   | 15.3           |
| 17                | 6         | 30.3 | 32.5   | 9.0            |
| 18                | 5         | 37.5 | 42.5   | 18.8           |
| 19                | 12        | 20.7 | 16.2   | 12.4           |
| 20                | 203       | 18.5 | 15.0   | 17.2           |
| 21                | 5         | 37.9 | 30.0   | 12.1           |
| 22                | 13        | 22.4 | 20.0   | 18.9           |
| 23                | 2         | 14.9 | 14.9   | 0.0            |
| 24                | 17        | 33.9 | 30.0   | 18.1           |
| 25                | 3         | 20.2 | 18.0   | 9.8            |
| 26                | 31        | 18.4 | 14.3   | 22.0           |
| 27                | 13        | 23.0 | 17.5   | 16.8           |
| 28                | 5         | 19.1 | 20.0   | 6.7            |
| 29                | 5         | 20.1 | 20.0   | 20.1           |
| 30                | 55        | 20.3 | 20.0   | 15.5           |
| 31                | 2         | 18.0 | 18.0   | 41.5           |
|                   |           |      |        |                |
| JD Not Given      | 408       | 17.7 | 15.0   | 13.9           |
|                   |           |      |        |                |
| Statewide         | 1075      | 20.7 | 15.3   | 17.4           |

**Table 34: Calendar Year - 2002: Permanent Partial Disability Multipliers - Leg Injuries - Employee Returned to Work for Pre-Injury Employer**

| Judicial District | Frequency | Mean | Median | Std. Deviation |
|-------------------|-----------|------|--------|----------------|
| 1                 | 16        | 3.1  | 2.9    | 1.2            |
| 2                 | 9         | 1.8  | 2.0    | 0.8            |
| 3                 | 11        | 3.2  | 3.0    | 1.5            |
| 4                 | 8         | 3.3  | 3.1    | 0.5            |
| 5                 | 6         | 2.5  | 2.3    | 0.9            |
| 6                 | 65        | 3.6  | 2.5    | 3.3            |
| 7                 | 12        | 4.0  | 3.6    | 1.8            |
| 8                 | 6         | 5.2  | 3.5    | 5.9            |
| 9                 | 8         | 3.0  | 3.0    | 1.2            |
| 10                | 11        | 2.7  | 2.5    | 1.2            |
| 11                | 69        | 2.9  | 2.8    | 1.3            |
| 12                | 10        | 3.1  | 2.8    | 1.7            |
| 13                | 4         | 2.8  | 2.0    | 1.9            |
| 14                | 8         | 3.3  | 3.1    | 1.4            |
| 15                | 10        | 2.7  | 2.0    | 1.7            |
| 16                | 36        | 2.7  | 2.5    | 1.2            |
| 17                | 5         | 3.4  | 3.0    | 2.0            |
| 18                | 4         | 2.3  | 2.1    | 0.7            |
| 19                | 12        | 2.8  | 2.5    | 1.4            |
| 20                | 203       | 2.6  | 2.5    | 1.4            |
| 21                | 5         | 2.3  | 1.6    | 1.1            |
| 22                | 13        | 2.6  | 2.5    | 1.0            |
| 23                | 2         | 3.6  | 3.6    | 0.9            |
| 24                | 17        | 3.4  | 2.5    | 2.1            |
| 25                | 3         | 1.5  | 1.5    | 0.6            |
| 26                | 31        | 2.7  | 2.5    | 1.4            |
| 27                | 13        | 2.6  | 2.5    | 0.6            |
| 28                | 5         | 3.4  | 2.0    | 3.1            |
| 29                | 5         | 2.7  | 3.0    | 0.7            |
| 30                | 54        | 2.7  | 2.5    | 1.1            |
| 31                | 2         | 2.5  | 2.5    | 0.2            |
| JD Not Given      | 408       | 2.5  | 2.3    | 1.1            |
| Statewide         | 1071      | 2.7  | 2.5    | 1.6            |

**Table 35: Calendar Year - 2002: Permanent Partial Disability - Monetary Benefits - Leg Injuries - Employee Returned to Work for Pre-Injury Employer**

| Judicial District | Frequency | Mean        | Median      | Std. Deviation |
|-------------------|-----------|-------------|-------------|----------------|
| 1                 | 15        | \$9,116.19  | \$8,277.20  | \$8,076.85     |
| 2                 | 9         | \$10,989.83 | \$10,230.00 | \$7,363.21     |
| 3                 | 11        | \$12,359.58 | \$14,364.90 | \$6,861.06     |
| 4                 | 9         | \$16,740.62 | \$15,000.00 | \$12,466.48    |
| 5                 | 8         | \$21,629.58 | \$23,108.26 | \$10,393.41    |
| 6                 | 63        | \$15,924.25 | \$10,000.50 | \$16,056.24    |
| 7                 | 12        | \$27,611.80 | \$23,998.70 | \$18,137.63    |
| 8                 | 8         | \$44,202.20 | \$46,011.00 | \$23,464.62    |
| 9                 | 8         | \$22,011.43 | \$21,050.50 | \$12,249.30    |
| 10                | 14        | \$20,475.90 | \$8,963.63  | \$25,234.33    |
| 11                | 72        | \$12,386.61 | \$9,178.16  | \$12,071.61    |
| 12                | 9         | \$23,939.07 | \$24,171.20 | \$17,095.76    |
| 13                | 4         | \$25,173.80 | \$25,835.50 | \$12,138.51    |
| 14                | 9         | \$25,760.74 | \$22,000.00 | \$13,960.22    |
| 15                | 11        | \$33,208.54 | \$30,605.66 | \$18,447.62    |
| 16                | 33        | \$18,221.60 | \$12,984.00 | \$15,150.90    |
| 17                | 6         | \$15,030.33 | \$12,135.04 | \$12,951.49    |
| 18                | 6         | \$15,402.82 | \$18,994.10 | \$8,826.55     |
| 19                | 17        | \$15,159.26 | \$13,267.00 | \$10,490.12    |
| 20                | 217       | \$14,812.08 | \$10,000.00 | \$15,442.44    |
| 21                | 6         | \$31,636.05 | \$33,648.10 | \$14,669.18    |
| 22                | 13        | \$21,674.31 | \$13,669.80 | \$30,391.69    |
| 23                | 3         | \$36,850.27 | \$47,500.00 | \$18,445.88    |
| 24                | 16        | \$20,203.43 | \$21,579.28 | \$9,101.23     |
| 25                | 2         | \$14,049.58 | \$14,049.58 | \$15,288.96    |
| 26                | 35        | \$12,858.59 | \$9,000.00  | \$10,339.62    |
| 27                | 14        | \$20,219.14 | \$14,652.95 | \$22,020.08    |
| 28                | 6         | \$13,020.44 | \$11,885.60 | \$4,272.52     |
| 29                | 5         | \$14,162.76 | \$9,228.80  | \$11,066.28    |
| 30                | 59        | \$19,025.10 | \$14,767.90 | \$19,868.86    |
| 31                | 2         | \$19,776.00 | \$19,776.00 | \$5,973.64     |
|                   |           |             |             |                |
| JD Not Given      | 427       | \$13,118.26 | \$9,236.06  | \$11,661.04    |
|                   |           |             |             |                |
| Statewide         | 1129      | \$15,488.29 | \$10,871.50 | \$14,783.72    |

## LEG INJURIES - EMPLOYEE DID NOT RETURN TO PRE-INJURY EMPLOYMENT

### PERMANENT PARTIAL IMPAIRMENT RATINGS

The average highest PPI ratings for leg injury cases where the injured worker did not return to work for the pre-injury employer for cases concluded in 2002 are listed in Table 36. The statewide mean PPI rating for no return to work leg cases is 14.6% to the leg with a range of 5.8% in Judicial District 24<sup>35</sup> to 39.0% in Judicial District 13<sup>36</sup>. As in the no return to work arm cases, due to the small number of cases per judicial district, significance tests for differences between judicial districts were not performed. Statewide mean PPI rating for no return to work leg injury cases have decreased 5.2% from 2000 to 2001 and almost 1% from 2001 to 2002.

### PERMANENT PARTIAL DISABILITY PERCENTAGE

Average PPD percentages for calendar year 2002 cases tried and settled involving leg injuries where the employee did not return to work are listed in Table 37. The statewide mean PPD percentage is 36.9% PPD to the leg (73.8 weeks) with range of 18.5% (37 weeks) in Judicial District 24 to 85.7% (171.4 weeks) in Judicial District 31. Table 78 lists the average PPD percentages for 2001 no return to work leg injury cases. PPD percentages for no return to work leg injury cases decreased 10.0% from 2000 to 2001 but increased 2.6% from 2001 to 2002.

### PERMANENT PARTIAL DISABILITY MULTIPLIERS

Table 38 lists the average PPD multipliers for 2002 no return to work leg injury cases. The statewide mean multiplier for no return to work leg injury cases is 3.4 with a range of 2.5 in Judicial District 18 to 6.8 in Judicial District 27. PPD multipliers for leg injury cases have remained relatively

<sup>35</sup>The mean PPD percentage for Judicial District 24 is the lowest with more than one case. Judicial districts with only one case are not included in reporting mean ranges (highs and lows).

<sup>36</sup>The mean PPD percentage for Judicial District 13 is the highest with more than one case. Judicial districts with only one case are not included in reporting mean ranges (highs and lows).

constant from 2000 to 2002.

#### PERMANENT PARTIAL DISABILITY MONETARY AMOUNTS

Table 39 displays average PPD monetary benefits paid for no return to work leg cases concluded in 2002. The mean PPD benefit amount is \$3,525.31 with a range of \$5122.33 in Judicial District 24 to \$75,083.73 in Judicial District 31<sup>37</sup>. Mean PPD monetary amounts for leg injury cases where the injured worker did not return to work decreased 6.0% from 2000 to 2001 but increased 2.6% from 2001 to 2002.

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<sup>37</sup>These three cases are all at or above 80% PPD and have high weekly compensation rates.

**Table 36: Calendar Year - 2002: Permanent Partial Impairment - Leg Injuries - Employee Did Not Return to Work for Pre-Injury Employer**

| Judicial District | Frequency | Mean | Median | Std. Deviation |
|-------------------|-----------|------|--------|----------------|
| 1                 | 2         | 28.5 | 28.5   | 12.0           |
| 2                 | 3         | 21.0 | 20.0   | 11.5           |
| 3                 | 6         | 14.5 | 12.0   | 12.5           |
| 4                 | 4         | 15.8 | 12.5   | 9.1            |
| 5                 | 2         | 13.5 | 13.5   | 16.3           |
| 6                 | 15        | 12.6 | 6.0    | 17.2           |
| 7                 | 4         | 8.3  | 7.5    | 6.6            |
| 8                 | 5         | 18.4 | 8.0    | 26.3           |
| 9                 | 4         | 12.3 | 8.5    | 12.6           |
| 10                | 5         | 21.4 | 11.0   | 19.3           |
| 11                | 17        | 14.2 | 10.0   | 12.2           |
| 12                | 3         | 9.0  | 10.0   | 3.6            |
| 13                | 3         | 39.0 | 50.0   | 21.7           |
| 14                | 1         | 75.0 | 75.0   |                |
| 15                | 5         | 16.6 | 15.0   | 7.1            |
| 16                | 10        | 9.3  | 9.0    | 5.1            |
| 17                | 1         | 10.0 | 10.0   |                |
| 18                | 3         | 8.0  | 9.0    | 2.6            |
| 19                | 5         | 17.2 | 8.0    | 19.0           |
| 20                | 45        | 13.2 | 9.0    | 13.0           |
| 21                | 3         | 7.2  | 6.5    | 2.6            |
| 22                | 1         | 2.0  | 2.0    |                |
| 23                | 1         | 21.0 | 21.0   |                |
| 24                | 4         | 5.8  | 5.5    | 1.0            |
| 25                | 0         |      |        |                |
| 26                | 0         |      |        |                |
| 27                | 2         | 17.0 | 17.0   | 17.0           |
| 28                | 1         | 28.0 | 28.0   |                |
| 29                | 1         | 15.0 | 15.0   |                |
| 30                | 15        | 22.1 | 13.0   | 27.2           |
| 31                | 3         | 34.2 | 35.0   | 18.8           |
| JD Not Given      | 69        | 12.2 | 7.0    | 13.8           |
| Statewide         | 243       | 14.6 | 9.0    | 15.5           |

**Table 37: Calendar Year - 2002: Percentage Awarded for Permanent Partial Disability - Leg Injuries - Employee Did Not Return to Work for Pre-Injury Employer**

| Judicial District | Frequency | Mean  | Median | Std. Deviation |
|-------------------|-----------|-------|--------|----------------|
| 1                 | 2         | 85.0  | 85.0   | 21.2           |
| 2                 | 3         | 68.3  | 75.0   | 25.7           |
| 3                 | 6         | 33.2  | 35.5   | 13.6           |
| 4                 | 4         | 52.8  | 54.0   | 34.4           |
| 5                 | 2         | 41.3  | 41.3   | 29.3           |
| 6                 | 15        | 34.2  | 25.0   | 25.9           |
| 7                 | 4         | 32.5  | 25.5   | 25.4           |
| 8                 | 5         | 51.0  | 43.0   | 35.3           |
| 9                 | 4         | 36.4  | 29.4   | 28.3           |
| 10                | 5         | 55.0  | 35.0   | 41.5           |
| 11                | 17        | 39.4  | 30.0   | 28.8           |
| 12                | 3         | 33.3  | 36.0   | 6.0            |
| 13                | 3         | 78.3  | 85.0   | 16.1           |
| 14                | 1         | 100.0 | 100.0  |                |
| 15                | 5         | 42.8  | 40.0   | 10.9           |
| 16                | 10        | 23.6  | 24.8   | 10.6           |
| 17                | 1         | 25.0  | 25.0   |                |
| 18                | 3         | 20.7  | 15.0   | 14.4           |
| 19                | 5         | 38.9  | 47.0   | 18.8           |
| 20                | 45        | 36.3  | 30.0   | 26.7           |
| 21                | 2         | 24.0  | 24.0   | 5.7            |
| 22                | 1         | 5.5   | 5.5    |                |
| 23                | 1         | 100.0 | 100.0  |                |
| 24                | 4         | 18.5  | 19.5   | 6.6            |
| 25                |           |       |        |                |
| 26                | 1         | 40.0  | 40.0   |                |
| 27                | 2         | 73.5  | 73.5   | 30.4           |
| 28                | 1         | 45.0  | 45.0   |                |
| 29                | 1         | 30.0  | 30.0   |                |
| 30                | 15        | 33.6  | 20.0   | 25.9           |
| 31                | 3         | 85.7  | 88.5   | 4.9            |
|                   |           |       |        |                |
| JD Not Given      | 69        | 29.7  | 24.0   | 24.0           |
|                   |           |       |        |                |
| Statewide         | 243       | 36.9  | 28.0   | 26.9           |

**Table 38: Calendar Year - 2002: Permanent Partial Disability Multipliers - Leg Injuries - Employee Did Not Return to Work for Pre-Injury Employer**

| Judicial District | Frequency | Mean | Median | Std. Deviation |
|-------------------|-----------|------|--------|----------------|
| 1                 | 2         | 3.1  | 3.1    | 0.9            |
| 2                 | 3         | 3.5  | 3.8    | 1.2            |
| 3                 | 6         | 3.1  | 2.7    | 1.4            |
| 4                 | 4         | 3.6  | 3.4    | 4.0            |
| 5                 | 2         | 6.4  | 6.4    | 1.1            |
| 6                 | 15        | 3.9  | 3.0    | 2.2            |
| 7                 | 4         | 5.2  | 3.8    |                |
| 8                 | 4         | 4.3  | 4.3    | 1.2            |
| 9                 | 4         | 3.9  | 3.5    | 2.1            |
| 10                | 5         | 3.1  | 2.7    | 2.4            |
| 11                | 17        | 3.4  | 3.0    | 1.1            |
| 12                | 3         | 4.0  | 3.8    | 5.1            |
| 13                | 3         | 2.6  | 1.7    | 0.5            |
| 14                | 1         | 1.3  | 1.3    |                |
| 15                | 5         | 2.8  | 2.9    | 1.0            |
| 16                | 10        | 2.8  | 2.8    | 1.3            |
| 17                | 1         | 2.5  | 2.5    | 1.5            |
| 18                | 3         | 2.5  | 2.0    |                |
| 19                | 5         | 3.6  | 2.8    | 1.1            |
| 20                | 45        | 3.4  | 3.1    | 1.3            |
| 21                | 2         | 3.4  | 3.4    | 1.2            |
| 22                | 1         | 2.8  | 2.8    | 1.5            |
| 23                | 1         | 14.3 | 14.3   |                |
| 24                | 4         | 3.2  | 3.3    | 0.5            |
| 25                | 0         |      |        |                |
| 26                | 1         | 0.2  | 0.2    | 1.6            |
| 27                | 2         | 6.8  | 6.8    |                |
| 28                | 1         | 1.6  | 1.6    | 1.0            |
| 29                | 1         | 2.0  | 2.0    | 0.3            |
| 30                | 15        | 3.0  | 2.3    | 2.3            |
| 31                | 3         | 3.1  | 3.5    |                |
| JD Not Given      | 69        | 3.2  | 2.9    | 1.5            |
| Statewide         | 242       | 3.4  | 3.0    | 1.9            |

**Table 39: Calendar Year - 2002: Permanent Partial Disability - Monetary Benefits - Leg Injuries - Employee Did Not Return to Work for Pre-Injury Employer**

| Judicial District | Frequency | Mean        | Median      | Std. Deviation |
|-------------------|-----------|-------------|-------------|----------------|
| 1                 | 3         | \$20,458.40 | \$19,000.00 | \$18,583.17    |
| 2                 | 5         | \$45,084.35 | \$46,480.00 | \$24,913.57    |
| 3                 | 9         | \$18,980.79 | \$20,304.00 | \$10,809.77    |
| 4                 | 3         | \$29,125.90 | \$15,000.00 | \$30,845.29    |
| 5                 | 3         | \$13,102.67 | \$3,750.00  | \$19,030.69    |
| 6                 | 15        | \$22,729.99 | \$18,333.23 | \$19,105.95    |
| 7                 | 4         | \$25,547.70 | \$10,857.50 | \$35,292.75    |
| 8                 | 6         | \$27,913.40 | \$17,661.42 | \$28,674.96    |
| 9                 | 3         | \$12,873.92 | \$14,500.00 | \$4,601.20     |
| 10                | 6         | \$30,490.00 | \$13,933.10 | \$28,270.20    |
| 11                | 19        | \$21,924.43 | \$14,000.00 | \$21,160.48    |
| 12                | 6         | \$24,205.09 | \$22,449.95 | \$15,847.84    |
| 13                | 3         | \$55,355.43 | \$51,844.90 | \$23,508.91    |
| 14                | 1         | \$19,230.00 | \$19,230.00 |                |
| 15                | 5         | \$33,267.17 | \$32,012.64 | \$7,280.44     |
| 16                | 8         | \$24,611.43 | \$20,541.30 | \$18,178.38    |
| 17                | 1         | \$13,789.50 | \$13,789.50 |                |
| 18                | 5         | \$24,288.34 | \$31,768.20 | \$13,472.79    |
| 19                | 5         | \$29,501.93 | \$37,187.00 | \$13,241.82    |
| 20                | 50        | \$25,704.28 | \$19,119.93 | \$22,959.69    |
| 21                | 6         | \$10,661.35 | \$9,833.50  | \$5,992.97     |
| 22                | 1         | \$5,500.00  | \$5,500.00  |                |
| 23                | 1         | \$40,002.00 | \$40,002.00 |                |
| 24                | 2         | \$5,122.33  | \$5,122.33  | \$832.51       |
| 25                | 0         |             |             |                |
| 26                | 1         | \$20,447.20 | \$20,447.20 |                |
| 27                | 2         | \$64,390.00 | \$64,390.00 | \$59,948.51    |
| 28                | 1         | \$40,700.00 | \$40,700.00 |                |
| 29                | 1         | \$32,460.00 | \$32,460.00 |                |
| 30                | 19        | \$18,775.48 | \$17,332.00 | \$14,156.97    |
| 31                | 3         | \$75,083.73 | \$91,200.00 | \$27,914.19    |
| JD Not Given      | 69        | \$17,954.77 | \$14,431.69 | \$16,129.87    |
| Statewide         | 266       | \$23,525.31 | \$17,433.74 | \$20,826.42    |

## **PSYCHOLOGICAL INJURY**

The parties are asked to indicate on each SD-1 form whether a psychological injury was claimed and are asked to indicate whether it was the sole injury claimed. Tables 40 and 41 give that data for cases closed in calendar years 2000 through 2002. The statewide percentage of cases where a psychological injury is claimed is at or below 2.5% and the percent claiming psychological injuries is below 1% from 2000 to 2002.

**Table 40: Workers' Compensation Cases In Which Psychological Injury Was Claimed**

| Judicial District | 2000        |                              |         | 2001        |                              |         | 2002        |                              |         |
|-------------------|-------------|------------------------------|---------|-------------|------------------------------|---------|-------------|------------------------------|---------|
|                   | Total Cases | Number Claiming Pysch Injury | Percent | Total Cases | Number Claiming Pysch Injury | Percent | Total Cases | Number Claiming Pysch Injury | Percent |
| 1                 | 163         | 8                            | 0.6%    | 116         | 6                            | 5.2%    | 144         | 8                            | 5.6%    |
| 2                 | 171         | 9                            | 2.3%    | 128         | 6                            | 4.7%    | 96          | 7                            | 7.3%    |
| 3                 | 237         | 11                           | 1.3%    | 220         | 12                           | 5.5%    | 161         | 12                           | 7.5%    |
| 4                 | 189         | 7                            | 0.0%    | 150         | 5                            | 3.3%    | 145         | 3                            | 2.1%    |
| 5                 | 75          | 3                            | 1.3%    | 71          | 6                            | 8.5%    | 86          | 1                            | 1.2%    |
| 6                 | 932         | 19                           | 0.6%    | 681         | 18                           | 2.6%    | 547         | 13                           | 2.4%    |
| 7                 | 208         | 10                           | 0.5%    | 163         | 10                           | 6.1%    | 153         | 3                            | 2.0%    |
| 8                 | 131         | 17                           | 1.5%    | 159         | 22                           | 13.8%   | 139         | 11                           | 7.9%    |
| 9                 | 127         | 3                            | 1.6%    | 113         | 5                            | 4.4%    | 134         | 13                           | 9.7%    |
| 10                | 288         | 17                           | 1.7%    | 278         | 14                           | 5.0%    | 227         | 10                           | 4.4%    |
| 11                | 811         | 16                           | 0.4%    | 893         | 23                           | 2.6%    | 698         | 17                           | 2.4%    |
| 12                | 209         | 2                            | 1.0%    | 202         | 10                           | 5.0%    | 132         | 3                            | 2.3%    |
| 13                | 200         | 1                            | 0.0%    | 221         | 3                            | 1.4%    | 96          | 2                            | 2.1%    |
| 14                | 73          |                              | 1.4%    | 64          | 1                            | 1.6%    | 64          | 1                            | 1.6%    |
| 15                | 165         | 6                            | 1.8%    | 181         | 2                            | 1.1%    | 118         | 0                            | 0.0%    |
| 16                | 581         | 16                           | 0.9%    | 560         | 15                           | 2.7%    | 403         | 10                           | 2.5%    |
| 17                | 138         | 1                            | 0.7%    | 108         | 3                            | 2.8%    | 83          | 2                            | 2.4%    |
| 18                | 101         |                              | 0.0%    | 100         |                              | 0.0%    | 106         | 5                            | 4.7%    |
| 19                | 140         | 5                            | 0.0%    | 142         | 7                            | 4.9%    | 159         | 2                            | 1.3%    |
| 20                | 2148        | 39                           | 0.5%    | 2050        | 29                           | 1.4%    | 1687        | 23                           | 1.4%    |
| 21                | 55          |                              | 0.0%    | 60          | 2                            | 3.3%    | 50          | 1                            | 2.0%    |
| 22                | 230         | 4                            | 0.9%    | 203         | 4                            | 2.0%    | 155         | 2                            | 1.3%    |
| 23                | 59          | 1                            | 1.7%    | 44          |                              | 0.0%    | 42          | 0                            | 0.0%    |
| 24                | 209         | 3                            | 0.0%    | 204         | 1                            | 0.5%    | 174         | 6                            | 3.4%    |
| 25                | 101         | 2                            | 0.0%    | 97          | 3                            | 3.1%    | 69          | 5                            | 7.2%    |
| 26                | 393         | 4                            | 0.5%    | 342         | 4                            | 1.2%    | 272         | 5                            | 1.8%    |
| 27                | 218         | 5                            | 2.8%    | 170         | 5                            | 2.9%    | 153         | 2                            | 1.3%    |
| 28                | 87          | 3                            | 0.0%    | 104         | 1                            | 1.0%    | 83          | 2                            | 2.4%    |
| 29                | 85          | 2                            | 0.0%    | 85          | 3                            | 3.5%    | 63          | 1                            | 1.6%    |
| 30                | 1113        | 36                           | 0.7%    | 807         | 23                           | 2.9%    | 525         | 22                           | 4.2%    |
| 31                | 104         |                              | 0.0%    | 85          | 1                            | 1.2%    | 66          | 1                            | 1.5%    |
|                   |             |                              |         |             |                              |         |             |                              |         |
| JD Not Given      | 1684        | 26                           | 0.2%    | 1804        | 17                           | 0.9%    | 2847        | 26                           | 0.9%    |
|                   |             |                              |         |             |                              |         |             |                              |         |
| Statewide         | 11425       | 276                          | 2.4%    | 10605       | 261                          | 2.5%    | 9877        | 219                          | 2.2%    |

**Table 41: Workers' Compensation Cases In Which Psychological Injury Was the Sole Injury Claimed**

| Judicial District | 2000        |                   |         | 2001        |                   |         | 2002        |                   |         |
|-------------------|-------------|-------------------|---------|-------------|-------------------|---------|-------------|-------------------|---------|
|                   | Total Cases | Sole Pysch Injury | Percent | Total Cases | Sole Pysch Injury | Percent | Total Cases | Sole Pysch Injury | Percent |
| 1                 | 163         | 1                 | 0.6%    | 116         | 2                 | 1.7%    | 144         | 1                 | 0.7%    |
| 2                 | 171         | 4                 | 2.3%    | 128         |                   | 0.0%    | 96          |                   | 0.0%    |
| 3                 | 237         | 3                 | 1.3%    | 220         |                   | 0.0%    | 161         | 1                 | 0.6%    |
| 4                 | 189         |                   | 0.0%    | 150         | 4                 | 2.7%    | 145         | 2                 | 1.4%    |
| 5                 | 75          | 1                 | 1.3%    | 71          | 1                 | 1.4%    | 86          |                   | 0.0%    |
| 6                 | 932         | 6                 | 0.6%    | 681         | 3                 | 0.4%    | 547         | 8                 | 1.5%    |
| 7                 | 208         | 1                 | 0.5%    | 163         |                   | 0.0%    | 153         | 1                 | 0.7%    |
| 8                 | 131         | 2                 | 1.5%    | 159         | 1                 | 0.6%    | 139         |                   | 0.0%    |
| 9                 | 127         | 2                 | 1.6%    | 113         | 1                 | 0.9%    | 134         | 1                 | 0.7%    |
| 10                | 288         | 5                 | 1.7%    | 278         |                   | 0.0%    | 227         | 2                 | 0.9%    |
| 11                | 811         | 3                 | 0.4%    | 893         | 3                 | 0.3%    | 698         | 4                 | 0.6%    |
| 12                | 209         | 2                 | 1.0%    | 202         | 2                 | 1.0%    | 132         |                   | 0.0%    |
| 13                | 200         |                   | 0.0%    | 221         | 3                 | 1.4%    | 96          | 1                 | 1.0%    |
| 14                | 73          | 1                 | 1.4%    | 64          |                   | 0.0%    | 64          |                   | 0.0%    |
| 15                | 165         | 3                 | 1.8%    | 181         |                   | 0.0%    | 118         |                   | 0.0%    |
| 16                | 581         | 5                 | 0.9%    | 560         | 3                 | 0.5%    | 403         | 3                 | 0.7%    |
| 17                | 138         | 1                 | 0.7%    | 108         |                   | 0.0%    | 83          |                   | 0.0%    |
| 18                | 101         |                   | 0.0%    | 100         |                   | 0.0%    | 106         |                   | 0.0%    |
| 19                | 140         |                   | 0.0%    | 142         | 2                 | 1.4%    | 159         | 1                 | 0.6%    |
| 20                | 2148        | 11                | 0.5%    | 2050        | 16                | 0.8%    | 1687        | 16                | 0.9%    |
| 21                | 55          |                   | 0.0%    | 60          |                   | 0.0%    | 50          |                   | 0.0%    |
| 22                | 230         | 2                 | 0.9%    | 203         | 1                 | 0.5%    | 155         | 1                 | 0.6%    |
| 23                | 59          | 1                 | 1.7%    | 44          | 1                 | 2.3%    | 42          |                   | 0.0%    |
| 24                | 209         |                   | 0.0%    | 204         |                   | 0.0%    | 174         |                   | 0.0%    |
| 25                | 101         |                   | 0.0%    | 97          | 1                 | 1.0%    | 69          |                   | 0.0%    |
| 26                | 393         | 2                 | 0.5%    | 342         | 1                 | 0.3%    | 272         | 3                 | 1.1%    |
| 27                | 218         | 6                 | 2.8%    | 170         |                   | 0.0%    | 153         | 3                 | 2.0%    |
| 28                | 87          |                   | 0.0%    | 104         |                   | 0.0%    | 83          |                   | 0.0%    |
| 29                | 85          |                   | 0.0%    | 85          | 1                 | 1.2%    | 63          |                   | 0.0%    |
| 30                | 1113        | 8                 | 0.7%    | 807         | 13                | 1.6%    | 525         | 7                 | 1.3%    |
| 31                | 104         |                   | 0.0%    | 85          | 1                 | 1.2%    | 66          |                   | 0.0%    |
| JD Not Given      | 1684        | 3                 | 0.2%    | 1804        | 7                 | 0.4%    | 2847        | 23                | 0.8%    |
| Statewide         | 11425       | 73                | 0.6%    | 10605       | 67                | 0.6%    | 9877        | 78                | 0.8%    |

## PERMANENT TOTAL DISABILITY

There are two methods of collecting data on the frequency of permanent total disability (PTD) cases. The SD-1 form allows for the case to be identified as a permanent total disability trial or settlement. The frequencies in which those fields are indicated for 2000 through 2002 cases are displayed in Table 42. For cases concluded in 2002, 120 (1.2%) are indicated as being PTD settlements and 13 (0.1%) are indicated as being PTD trials.

**Table 42: Permanent Total Disability Case Frequencies**

| Year | PTD Settlement |         | PTD Trial |         | Total |
|------|----------------|---------|-----------|---------|-------|
|      | Frequency      | Percent | Frequency | Percent |       |
| 2000 | 171            | 1.50%   | 14        | 0.12%   | 1.62% |
| 2001 | 117            | 1.10%   | 14        | 0.13%   | 1.24% |
| 2002 | 120            | 1.21%   | 13        | 0.13%   | 1.35% |

The SD-1 form also collects the amounts of different types of monetary benefits that are associated with each workers' compensation case. PTD benefits are one of the benefit types collected. Table 43 displays the number of SD-1 forms in which the reported PTD benefit amount is greater than \$0.00 for calendar year 2000 through 2002 cases. The 2002 SD-1 data indicate PTD settlement benefits being paid in 113 cases (1%). In 10 cases, PTD trial benefits are paid. In 6 cases, the SD-1 data indicate PTD benefits are paid, but no conclusion type is indicated. In calendar year 2000 cases, 2.4% included the payment of PTD benefits and in calendar year 2001, 1.8%. Thus, the percentage of PTD cases appears to be diminishing.

**Table 43: Frequencies of Monetary Permanent Total Disability Benefits Paid**

| Year | PTD Settlement Benefits Paid |         | PTD Trial Benefits Paid |         | PTD Benefits Paid Conclusion Type Missing |         | Total |
|------|------------------------------|---------|-------------------------|---------|-------------------------------------------|---------|-------|
|      | Frequency                    | Percent | Frequency               | Percent | Frequency                                 | Percent |       |
| 2000 | 211                          | 1.85%   | 13                      | 0.11%   | 46                                        | 0.40%   | 2.36% |
| 2001 | 151                          | 1.42%   | 10                      | 0.09%   | 32                                        | 0.30%   | 1.82% |
| 2002 | 113                          | 1.14%   | 10                      | 0.10%   | 6                                         | 0.06%   | 1.31% |

## DEATH CASES

The monetary amount of death benefits paid is also indicated on SD-1 forms. The frequencies of death benefits paid for 2000 through 2002 cases are presented in Table 44. Out of all the 2002 cases, the SD-1 data indicate death settlement benefits being paid in 35 (0.4%) cases. In 1 case, death trial benefits are paid. In 2 cases, death benefits are paid but no conclusion type is indicated. From 2000 to 2002, the percent of cases where death benefits are paid has steadily decreased from 0.7% to 0.4%.

**Table 44: Frequencies of Monetary Death Benefits Paid**

| Year | Death Settlement Benefits Paid |         | Death Trial Benefits Paid |         | Death Benefits Paid Conclusion Type Missing |         | Total |
|------|--------------------------------|---------|---------------------------|---------|---------------------------------------------|---------|-------|
|      | Frequency                      | Percent | Frequency                 | Percent | Frequency                                   | Percent |       |
| 2000 | 57                             | 0.50%   | 5                         | 0.04%   | 13                                          | 0.11%   | 0.66% |
| 2001 | 40                             | 0.38%   | 0                         | 0.00%   | 11                                          | 0.10%   | 0.48% |
| 2002 | 35                             | 0.35%   | 1                         | 0.01%   | 2                                           | 0.02%   | 0.38% |

## APPEALS

After a case has been tried by a court in Tennessee, either party may appeal the court's verdict to the Tennessee Supreme Court. Pursuant to Supreme Court rules, all workers' compensation cases are referred to the Special Workers' Compensation Panel for hearing. It is mandatory for the Appeals Panel to hear the case. After the decision of the Panel has been sent to the parties, either or both of the parties can request the Supreme Court for a Full Court Review of the case. This review is discretionary with the Supreme Court. If the Supreme Court grants a Full Court Review, the case is argued before the entire Supreme Court and an opinion is issued. If a motion for a Full Court Review is not filed, the Supreme Court formally adopts the Panel's opinion. Decisions of both the Appeals Panel and the Supreme Court are published on the Supreme Court's website ([www.tsc.state.tn.us](http://www.tsc.state.tn.us)).

Table 45 contains information regarding workers' compensation appeals that was provided to the Advisory Council by the Administrative Office of the Courts.<sup>38</sup>

**Table 45: Workers' Compensation Appeals**

| Year | Workers'<br>Compensation<br>Appeals | Number of<br>Motions for Full<br>Court Review<br>FILED | Number of<br>Motions for Full<br>Court Review<br>GRANTED | Number of<br>Motions for Full<br>Court Review<br>DENIED |
|------|-------------------------------------|--------------------------------------------------------|----------------------------------------------------------|---------------------------------------------------------|
| 2000 | 193                                 | 60                                                     | 14                                                       | 48                                                      |
| 2001 | 178                                 | 68                                                     | 10                                                       | 59                                                      |
| 2002 | 166                                 | 55                                                     | 6                                                        | 51                                                      |

<sup>38</sup> The Administrative Office of the Courts publishes an annual report which contains this information for each *fiscal* year. A special thank-you goes to the AOC for providing the information for *calendar* years 2000 and 2001 so the data could be included in this report. The AOC numbers are based on actual file records accumulated rather than on notices of appeal filed. The numbers may not add up exactly because some cases are filed late in a year and are not reviewed or disposed until the next year.

Table 46 compares the number of trials reported on the Statistical Data Form with the number of appeals reported by the AOC. The number of appeals is less each year from 2000 to 2002 however, no trend is emerging for the percent of trial judgments that are appealed. It is quite possible there are more workers' compensation trials conducted in Tennessee annually than the number for which a Statistical Data Form is filed, despite the clear language of both the statute and the form indicating an SD-1 form is to be filed when the order is submitted to the trial court. If so, the appeals percentage would be lower. However, at this point it is impossible to determine for certain the number of trials conducted each year.

**Table 46: Comparison of Number of Trials to Number of Appeals Filed**

| <b>Year</b> | <b>Number of Trials Reported<br/>on SD-1 Forms</b> | <b>Number of Appeals Filed<br/>with Supreme Court</b> | <b>Percent of Trial Verdicts<br/>Appealed</b> |
|-------------|----------------------------------------------------|-------------------------------------------------------|-----------------------------------------------|
| 2000        | 321                                                | 193                                                   | 60.1%                                         |
| 2001        | 247                                                | 178                                                   | 72.1%                                         |
| 2002        | 243                                                | 166                                                   | 68.3%                                         |

## CONCLUSION

The primary intent of the statistical portion of the annual report is to give the reader a snapshot of calendar year 2002 Tennessee workers' compensation data. As this is the third year captured data is available from the Department of Labor and Workforce Development, recent historical data is also reported. Having three years of data helps to put each year in perspective and allows interested parties to monitor trends. From these trends the following statements can be made about the workers' compensation system in Tennessee from calendar years 2000 to 2002:

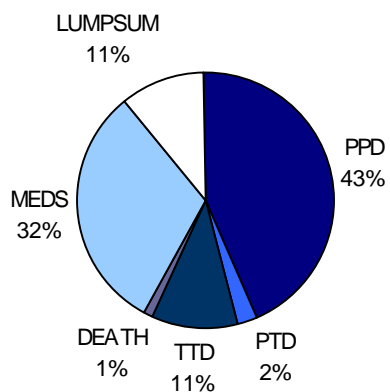
- cases are taking longer to reach maximum medical improvement
- the parties are having to wait longer to get a trial or Department approved settlement
- the average age of injured workers is slowly increasing
- the education level of injured workers is increasing
- injured workers are making more money, but fewer are receiving benefits at the maximum compensation rate
- permanent partial impairment ratings are steadily decreasing
- mean permanent partial disability awards are increasing
- there are fewer permanent total disability and death cases

Throughout the previous pages of this report, the numbers given have been average amounts, permitting per case comparisons. It is also important to consider what is happening in Tennessee as a whole. The following three charts indicate the percent of all medical and indemnity dollars<sup>39</sup> reported on SD-1 forms for each calendar year data is available.

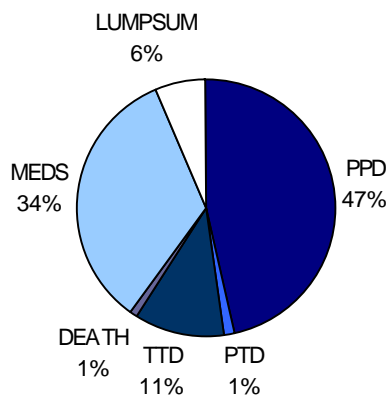
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<sup>39</sup>It is not possible to determine the exact composition of the lump sum category. A lump sum could represent permanent partial disability, medical amounts (including money paid to close medicals) or a combination.

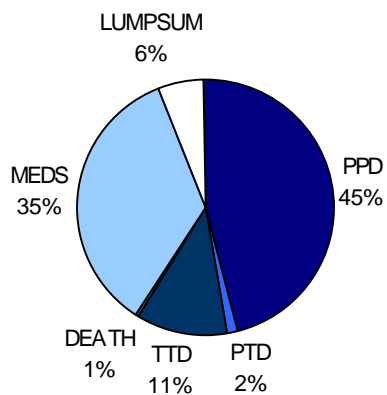
**CY2000 Percent of Workers' Compensation  
Dollars For All Tennessee Claims**



**CY2001 Percent of Workers' Compensation  
Dollars For All Tennessee Claims**



**CY2002 Percent of Workers' Compensation  
Dollars For All Tennessee Claims**



## APPENDIX 1

### SUMMARY OF 2001 - 2002 TENNESSEE WORKERS' COMPENSATION DATA

The following pages summarize most of the statewide data presented previously in this report. The summaries are provided to give the reader a quick reference tool for comparing variables and viewing trends.

The first set of charts presents mean values for the variables given. The second set gives median values. Trend arrows are given to help identify variables that show increases or decreases between both 2000-2001 and 2001-2002 (↗ for increases and ↘ for decreases). The reader is encouraged to look at both the values given and the percentage change. A large percentage change may not necessarily mean an actual large change. For example, the percentage of cases where death benefits were paid decreased from 0.7% to 0.5% from 2000 to 2001 reflecting a 27% reduction in the percentage of cases where death benefits were paid. However, the difference between 0.7% and 0.5% is only 0.2%.

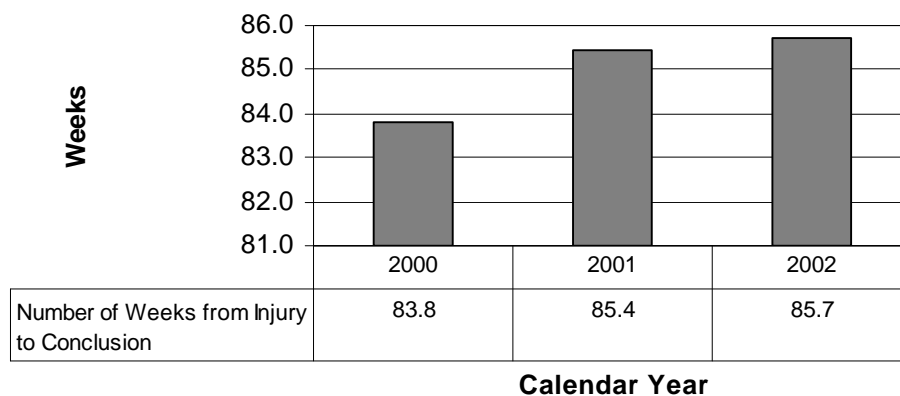
| Summary of Closed Case Data for All of Tennessee (Mean)              |                            |                            |                            |       |                                   |                                   |
|----------------------------------------------------------------------|----------------------------|----------------------------|----------------------------|-------|-----------------------------------|-----------------------------------|
|                                                                      | 2000<br>Mean or<br>Percent | 2001<br>Mean or<br>Percent | 2002<br>Mean or<br>Percent | Trend | 2000 to 2001<br>Percent<br>Change | 2001 to 2002<br>Percent<br>Change |
| <b>Case Length</b>                                                   |                            |                            |                            |       |                                   |                                   |
| Number of Weeks From Injury to MMI                                   | 41.6                       | 42.5                       | 44.0                       | ü     | 2.3%                              | 3.4%                              |
| Number of Weeks from MMI to Conclusion                               | 38.6                       | 38.9                       | 38.7                       |       | 0.9%                              | -0.6%                             |
| Number of Weeks from Injury to Conclusion                            | 83.8                       | 85.4                       | 85.7                       | ü     | 1.9%                              | 0.3%                              |
| <b>Case Information</b>                                              |                            |                            |                            |       |                                   |                                   |
| Average Age at Date of Injury                                        | 41.5                       | 41.6                       | 41.8                       | ü     | 0.2%                              | 0.5%                              |
| Percent of Employees with Less Than a High School Education          | 20.5%                      | 20.8%                      | 19.0%                      |       | 1.4%                              | -8.6%                             |
| Percent of Employees a High School Education                         | 59.4%                      | 59.1%                      | 57.2%                      | ü     | -0.6%                             | -3.2%                             |
| Percent of Employees with More Than a High School Education          | 20.1%                      | 20.2%                      | 23.8%                      | ü     | 0.3%                              | 18.1%                             |
| Average Weekly Compensation Rate                                     | \$319.10                   | \$331.32                   | \$342.07                   | ü     | 3.8%                              | 3.2%                              |
| Average Number of Weeks of TTD Benefits                              | 18.2                       | 18.3                       | 20.9                       | ü     | 0.4%                              | 14.4%                             |
| Average Monetary Amount of TTD Benefits                              | \$6,116.74                 | \$6,594.42                 | \$6,885.68                 | ü     | 7.8%                              | 4.4%                              |
| Average Monetary Amount of Medical Benefits/Expenses                 | \$14,618.33                | \$15,680.80                | \$16,772.33                | ü     | 7.3%                              | 7.0%                              |
| <b>BAW Injuries Where Injured Worker was Returned to Work</b>        |                            |                            |                            |       |                                   |                                   |
| Average Weekly Compensation Rate                                     | \$343.88                   | \$359.22                   | \$371.98                   |       | 4.5%                              | 3.6%                              |
| Average PPI Rating                                                   | 9.4                        | 9.2                        | 9.5                        |       | -1.9%                             | 3.0%                              |
| Average PPD Multiplier                                               | 2.2                        | 2.2                        | 2.3                        |       | 1.2%                              | 3.3%                              |
| Average PPD Percentage Awarded                                       | 18.5                       | 18.9                       | 19.7                       | ü     | 2.4%                              | 4.1%                              |
| Average PPD Monetary Benefit                                         | \$22,212.91                | \$24,457.69                | \$29,299.43                | ü     | 10.1%                             | 19.8%                             |
| <b>BAW Injuries Where Injured Worker was not Returned to Work</b>    |                            |                            |                            |       |                                   |                                   |
| Average Weekly Compensation Rate                                     | \$291.05                   | \$304.72                   | \$315.00                   | ü     | 4.7%                              | 3.4%                              |
| Average PPI Rating                                                   | 15.0                       | 14.2                       | 12.8                       | ü     | -5.4%                             | -9.8%                             |
| Average PPD Multiplier                                               | 3.1                        | 3.2                        | 3.2                        |       | 2.6%                              | 0.0%                              |
| Average PPD Percentage Awarded                                       | 32.9                       | 34.3                       | 34.4                       | ü     | 4.3%                              | 0.3%                              |
| Average PPD Monetary Benefit                                         | \$32,849.20                | \$38,072.65                | \$43,581.31                | ü     | 15.9%                             | 14.5%                             |
| <b>Arm Injuries Where Injured Worker was Returned to Work</b>        |                            |                            |                            |       |                                   |                                   |
| Average Weekly Compensation Rate                                     | \$330.39                   | \$338.73                   | \$348.29                   | ü     | 2.5%                              | 2.8%                              |
| Average PPI Rating                                                   | 9.1                        | 9.5                        | 8.2                        |       | 4.4%                              | -13.7%                            |
| Average PPD Multiplier                                               | 2.7                        | 2.8                        | 2.8                        |       | 4.2%                              | 0.0%                              |
| Average PPD Percentage Awarded                                       | 20.6                       | 21.1                       | 19.0                       |       | 2.3%                              | -9.8%                             |
| Average PPD Monetary Benefit                                         | \$14,739.69                | \$16,052.70                | \$17,392.26                | ü     | 8.9%                              | 8.3%                              |
| <b>Arm Injuries Where Injured Worker was not Returned to Work</b>    |                            |                            |                            |       |                                   |                                   |
| Average Weekly Compensation Rate                                     | \$272.84                   | \$284.85                   | \$288.77                   | ü     | 4.4%                              | 1.4%                              |
| Average PPI Rating                                                   | 13.0                       | 11.6                       | 10.6                       | ü     | -11.1%                            | -8.3%                             |
| Average PPD Multiplier                                               | 3.2                        | 3.3                        | 3.5                        | ü     | 2.4%                              | 6.8%                              |
| Average PPD Percentage Awarded                                       | 30.2                       | 28.5                       | 28.7                       |       | -5.5%                             | 0.4%                              |
| Average PPD Monetary Benefit                                         | \$20,188.79                | \$19,696.23                | \$23,943.46                |       | -2.4%                             | 21.6%                             |
| <b>Leg Injuries Where Injured Worker was Returned to Work</b>        |                            |                            |                            |       |                                   |                                   |
| Average Weekly Compensation Rate                                     | \$351.78                   | \$361.54                   | \$371.54                   | ü     | 2.8%                              | 2.8%                              |
| Average PPI Rating                                                   | 9.7                        | 9.3                        | 8.6                        | ü     | -4.1%                             | -7.5%                             |
| Average PPD Multiplier                                               | 2.7                        | 2.7                        | 2.7                        |       | 0.0%                              | 0.0%                              |
| Average PPD Percentage Awarded                                       | 21.9                       | 21.4                       | 20.7                       | ü     | -2.3%                             | -3.1%                             |
| Average PPD Monetary Benefit                                         | \$13,546.39                | \$14,086.62                | \$15,488.29                | ü     | 4.0%                              | 10.0%                             |
| <b>Leg Injuries Where Injured Worker was not Returned to Work</b>    |                            |                            |                            |       |                                   |                                   |
| Average Weekly Compensation Rate                                     | \$296.75                   | \$292.88                   | \$300.40                   |       | -1.3%                             | 2.6%                              |
| Average PPI Rating                                                   | 15.5                       | 14.7                       | 14.6                       | ü     | -5.2%                             | -0.7%                             |
| Average PPD Multiplier                                               | 3.3                        | 3.3                        | 3.4                        |       | 0.0%                              | 4.2%                              |
| Average PPD Percentage Awarded                                       | 39.9                       | 35.9                       | 36.9                       |       | -10.0%                            | 2.6%                              |
| Average PPD Monetary Benefit                                         | \$24,405.38                | \$22,939.37                | \$23,525.31                |       | -6.0%                             | 2.6%                              |
| <b>Psychological Injuries</b>                                        |                            |                            |                            |       |                                   |                                   |
| Percent of Cases Claiming Psychological Injury                       | 2.4%                       | 2.5%                       | 2.3%                       |       | 4.2%                              | -8.0%                             |
| Percent of Cases Where Psychological Injury was the Sole Claim       | 0.6%                       | 0.6%                       | 0.8%                       |       | 0.0%                              | 33.3%                             |
| <b>Permanent Total and Death Case Frequency</b>                      |                            |                            |                            |       |                                   |                                   |
| Percent of Cases Where Permanent Total Disability Benefits Were Paid | 2.4%                       | 1.8%                       | 1.3%                       | ü     | -25.0%                            | -27.2%                            |
| Percent of Cases Where Death Benefits Were Paid                      | 0.7%                       | 0.5%                       | 0.4%                       | ü     | -27.3%                            | -20.8%                            |

| Summary of Closed Case Data for All of Tennessee (Median)            |                   |                   |                   |       |                |                |
|----------------------------------------------------------------------|-------------------|-------------------|-------------------|-------|----------------|----------------|
|                                                                      | 2000              | 2001              | 2002              |       | 2000 to 2001   | 2001 to 2002   |
| Case Length                                                          | Median or Percent | Median or Percent | Median or Percent | Trend | Percent Change | Percent Change |
| Number of Weeks From Injury to MMI                                   | 31.4              | 32.9              | 33.9              | ü     | 4.8%           | 2.9%           |
| Number of Weeks from MMI to Conclusion                               | 26.0              | 25.4              | 25.7              |       | -2.3%          | 1.2%           |
| Number of Weeks from Injury to Conclusion                            | 69.0              | 69.9              | 71.6              | ü     | 1.3%           | 2.4%           |
| <b>Case Information</b>                                              |                   |                   |                   |       |                |                |
| Average Age at Date of Injury                                        | 41.0              | 41.0              | 42.0              |       | 0.0%           | 2.4%           |
| Percent of Employees with Less Than a High School Education          | 20.5%             | 20.8%             | 19.0%             |       | 1.4%           | -8.6%          |
| Percent of Employees a High School Education                         | 59.4%             | 59.1%             | 57.2%             | ü     | -0.6%          | -3.2%          |
| Percent of Employees with More Than a High School Education          | 20.1%             | 20.2%             | 23.8%             | ü     | 0.3%           | 18.1%          |
| Average Weekly Compensation Rate                                     | \$302.05          | \$312.79          | \$322.28          | ü     | 3.6%           | 3.0%           |
| Average Number of Weeks of TTD Benefits                              | 12.6              | 12.3              | 13.3              |       | -2.4%          | 8.0%           |
| Average Monetary Amount of TTD Benefits                              | \$3,679.29        | \$3,817.40        | \$4,114.30        | ü     | 3.8%           | 7.8%           |
| Average Monetary Amount of Medical Benefits/Expenses                 | \$9,357.55        | \$10,093.91       | \$11,040.80       | ü     | 7.9%           | 9.4%           |
| <b>BAW Injuries Where Injured Worker was Returned to Work</b>        |                   |                   |                   |       |                |                |
| Average Weekly Compensation Rate                                     | \$334.17          | \$353.20          | \$359.63          | ü     | 5.7%           | 1.8%           |
| Average PPI Rating                                                   | 8.0               | 8.0               | 8.0               |       | 0.0%           | 0.0%           |
| Average PPD Multiplier                                               | 2.0               | 2.0               | 2.0               |       | 0.0%           | 0.0%           |
| Average PPD Percentage Awarded                                       | 15.0              | 15.0              | 15.0              |       | 0.0%           | 0.0%           |
| Average PPD Monetary Benefit                                         | \$17,312.00       | \$19,926.00       | \$22,374.40       | ü     | 15.1%          | 12.3%          |
| <b>BAW Injuries Where Injured Worker was not Returned to Work</b>    |                   |                   |                   |       |                |                |
| Average Weekly Compensation Rate                                     | \$273.33          | \$284.83          | \$287.89          | ü     | 4.2%           | 1.1%           |
| Average PPI Rating                                                   | 10.0              | 10.0              | 10.0              |       | 0.0%           | 0.0%           |
| Average PPD Multiplier                                               | 2.9               | 3.0               | 3.0               |       | 3.4%           | 0.0%           |
| Average PPD Percentage Awarded                                       | 25.0              | 30.0              | 27.4              |       | 20.0%          | -8.7%          |
| Average PPD Monetary Benefit                                         | \$22,571.50       | \$28,269.12       | \$31,336.00       | ü     | 25.2%          | 10.8%          |
| <b>Arm Injuries Where Injured Worker was Returned to Work</b>        |                   |                   |                   |       |                |                |
| Average Weekly Compensation Rate                                     | \$309.40          | \$315.97          | \$321.00          | ü     | 2.1%           | 1.6%           |
| Average PPI Rating                                                   | 7.0               | 6.0               | 5.0               | ü     | -14.3%         | -16.7%         |
| Average PPD Multiplier                                               | 2.3               | 2.5               | 2.8               | ü     | 8.7%           | 12.5%          |
| Average PPD Percentage Awarded                                       | 17.5              | 16.0              | 15.0              | ü     | -8.6%          | -6.3%          |
| Average PPD Monetary Benefit                                         | \$10,820.00       | \$11,516.10       | \$11,994.74       | ü     | 6.4%           | 4.2%           |
| <b>Arm Injuries Where Injured Worker was not Returned to Work</b>    |                   |                   |                   |       |                |                |
| Average Weekly Compensation Rate                                     | \$251.57          | \$255.47          | \$269.71          | ü     | 1.6%           | 5.6%           |
| Average PPI Rating                                                   | 10.0              | 10.0              | 7.5               |       | 0.0%           | -25.0%         |
| Average PPD Multiplier                                               | 3.0               | 3.0               | 3.0               |       | 0.0%           | 0.0%           |
| Average PPD Percentage Awarded                                       | 25.3              | 23.8              | 22.0              | ü     | -5.9%          | -7.6%          |
| Average PPD Monetary Benefit                                         | \$14,344.75       | \$13,023.78       | \$17,889.75       |       | -9.2%          | 37.4%          |
| <b>Leg Injuries Where Injured Worker was Returned to Work</b>        |                   |                   |                   |       |                |                |
| Average Weekly Compensation Rate                                     | \$343.98          | \$352.66          | \$362.09          | ü     | 2.5%           | 2.7%           |
| Average PPI Rating                                                   | 7.0               | 7.0               | 7.0               |       | 0.0%           | 0.0%           |
| Average PPD Multiplier                                               | 2.4               | 2.5               | 2.5               |       | 4.2%           | 0.0%           |
| Average PPD Percentage Awarded                                       | 16.0              | 17.5              | 15.3              |       | 9.4%           | -12.6%         |
| Average PPD Monetary Benefit                                         | \$9,200.50        | \$10,595.20       | \$10,871.50       | ü     | 15.2%          | 2.6%           |
| <b>Leg Injuries Where Injured Worker was not Returned to Work</b>    |                   |                   |                   |       |                |                |
| Average Weekly Compensation Rate                                     | \$285.01          | \$280.01          | \$281.66          |       | -1.8%          | 0.6%           |
| Average PPI Rating                                                   | 10.0              | 10.0              | 9.0               |       | 0.0%           | -10.0%         |
| Average PPD Multiplier                                               | 3.0               | 3.0               | 3.0               |       | 0.0%           | 0.0%           |
| Average PPD Percentage Awarded                                       | 30.0              | 30.0              | 28.0              |       | 0.0%           | -6.7%          |
| Average PPD Monetary Benefit                                         | \$15,438.50       | \$14,645.92       | \$17,433.74       |       | -5.1%          | 19.0%          |
| <b>Psychological Injuries</b>                                        |                   |                   |                   |       |                |                |
| Percent of Cases Claiming Psychological Injury                       | 2.4%              | 2.5%              | 2.3%              |       | 4.2%           | -8.0%          |
| Percent of Cases Where Psychological Injury was the Sole Claim       | 0.6%              | 0.6%              | 0.8%              |       | 0.0%           | 33.3%          |
| <b>Permanent Total and Death Case Frequency</b>                      |                   |                   |                   |       |                |                |
| Percent of Cases Where Permanent Total Disability Benefits Were Paid | 2.4%              | 1.8%              | 1.3%              | ü     | -25.0%         | -27.2%         |
| Percent of Cases Where Death Benefits Were Paid                      | 0.7%              | 0.5%              | 0.4%              | ü     | -27.3%         | -20.8%         |

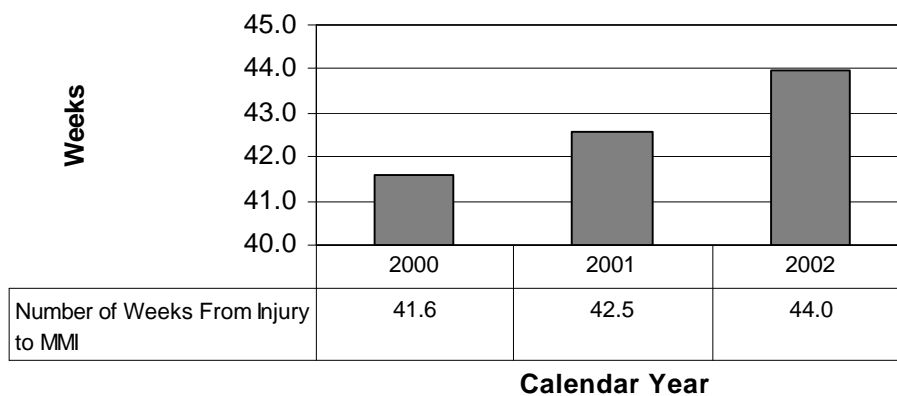
## APPENDIX 2

### THREE YEAR TREND GRAPHS FOR TENNESSEE WORKERS' COMPENSATION CASES CONCLUDING IN CALENDAR YEARS 2000 - 2002

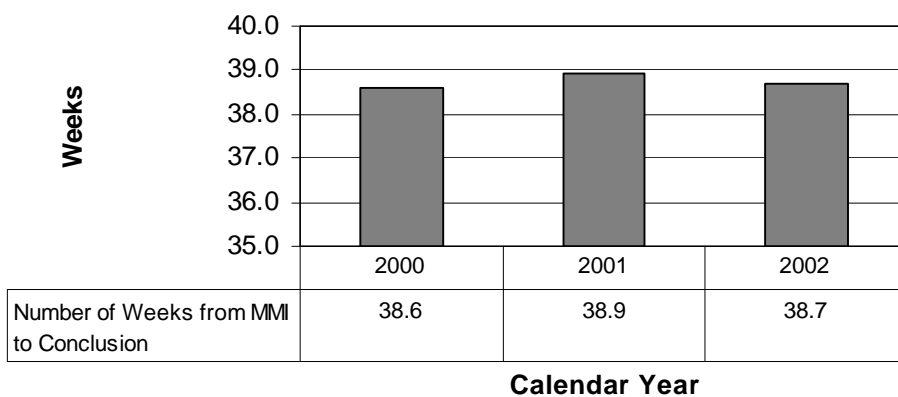
**Number of Weeks from Injury to Conclusion**



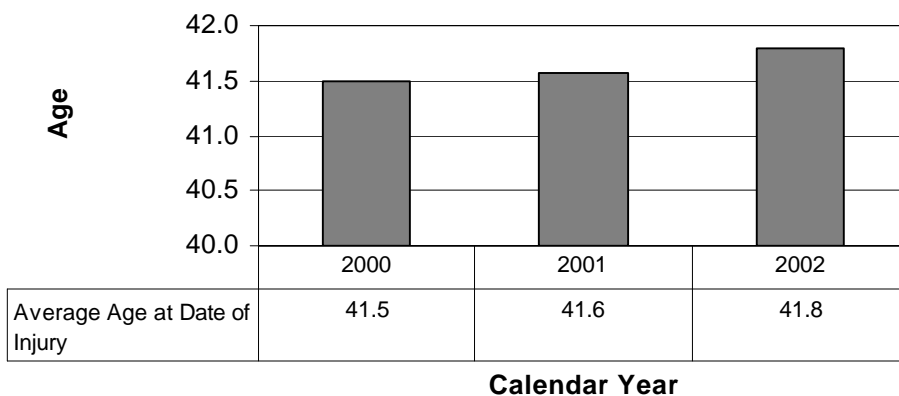
**Number of Weeks From Injury to MMI**



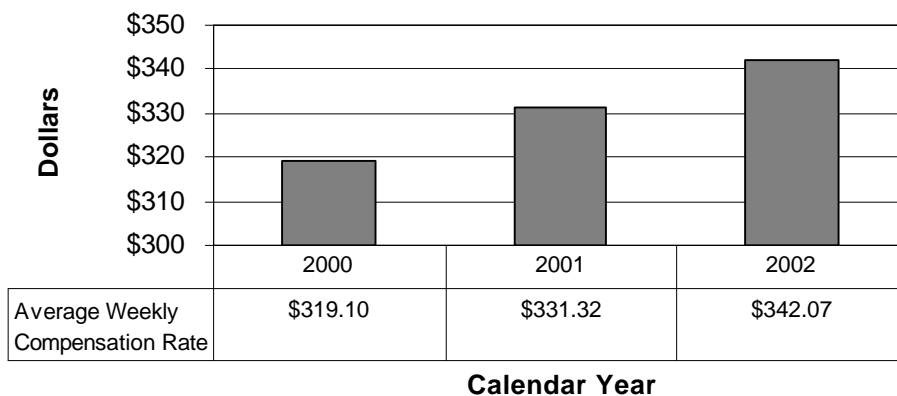
### Number of Weeks from MMI to Conclusion



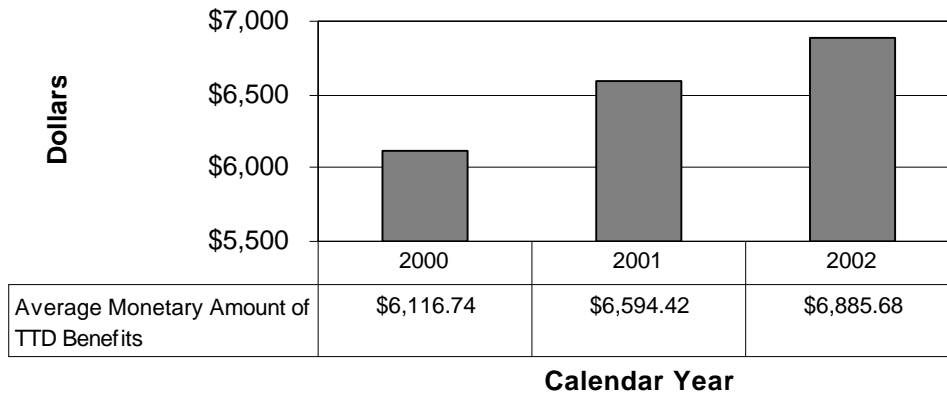
### Average Age at Date of Injury



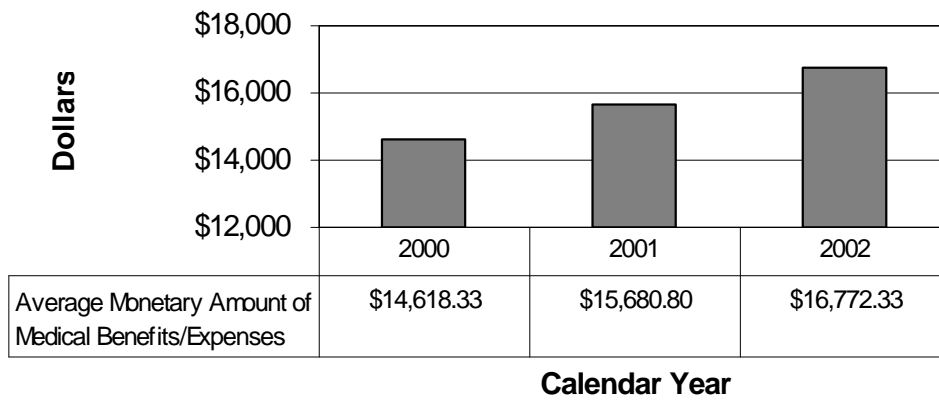
### Average Weekly Compensation Rate



### Average Monetary Amount of TTD Benefits

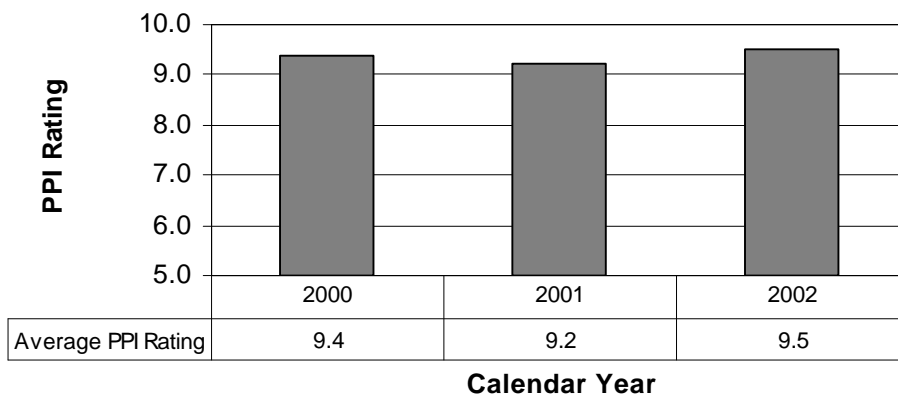


### Average Monetary Amount of Medical Benefits/Expenses

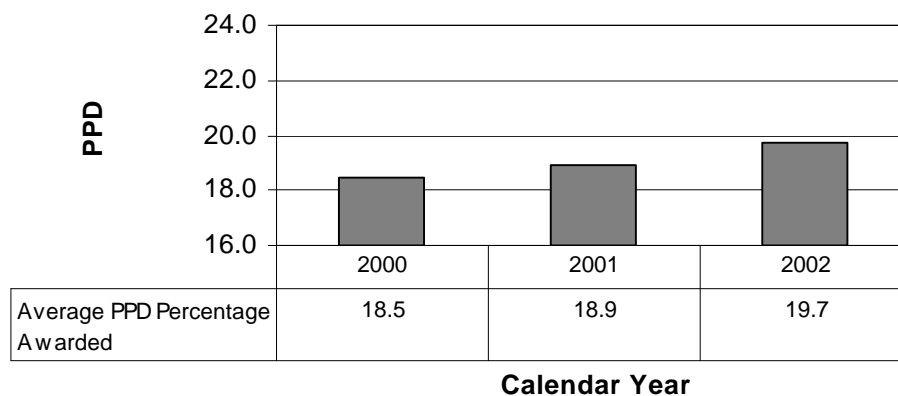


## Body as a Whole Cases Where the Injured Worker Returned to Work

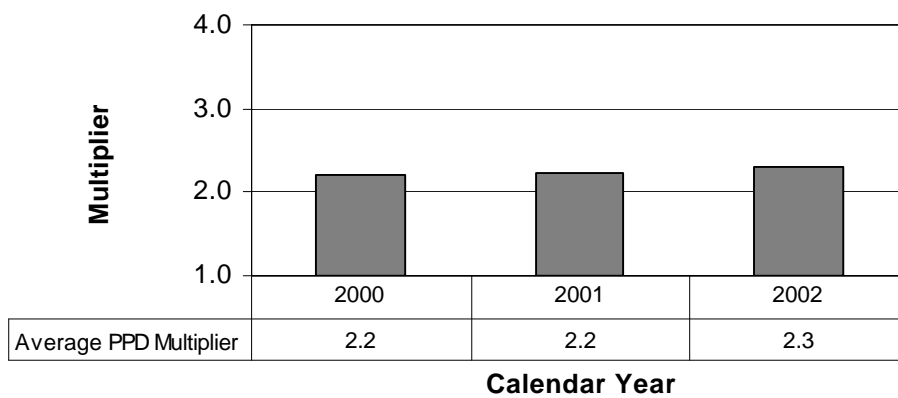
**Average PPI Rating**



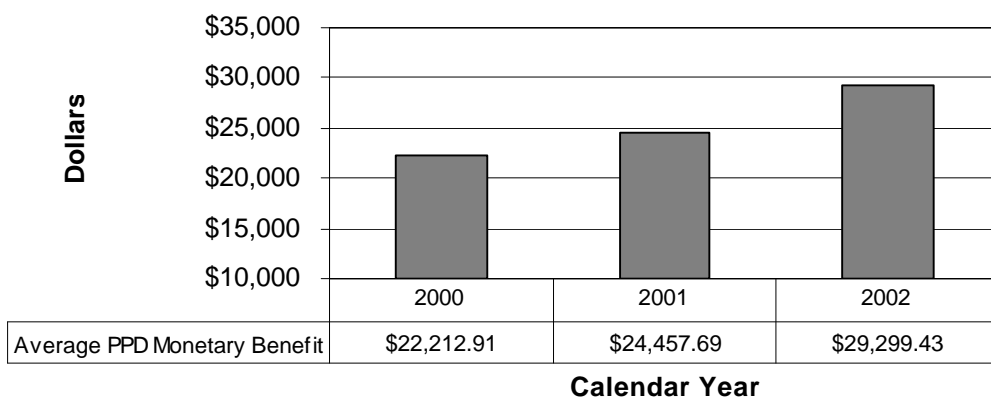
**Average PPD Percentage Awarded**



### Average PPD Multiplier

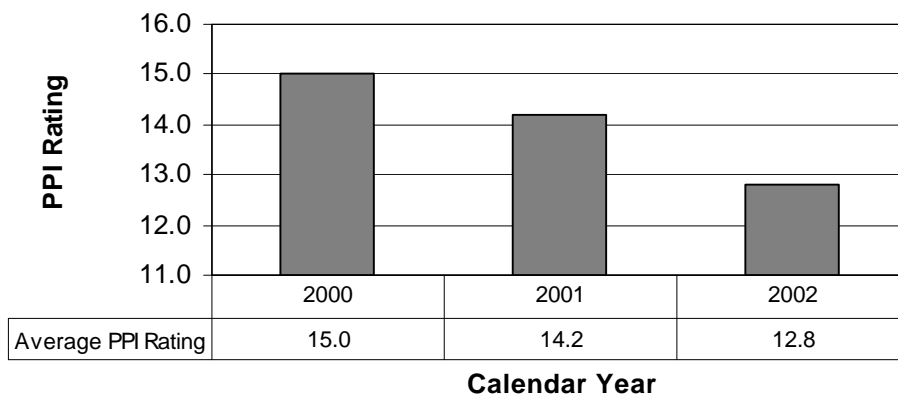


### Average PPD Monetary Benefit

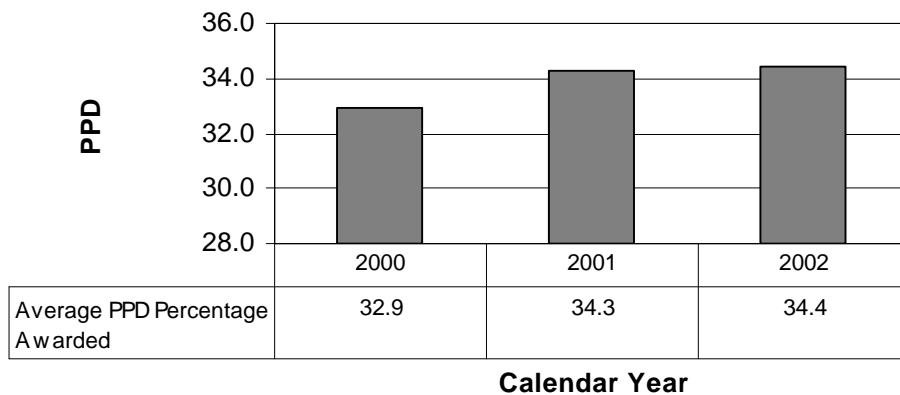


## Body as a Whole Cases Where the Injured Worker Did Not Return to Work

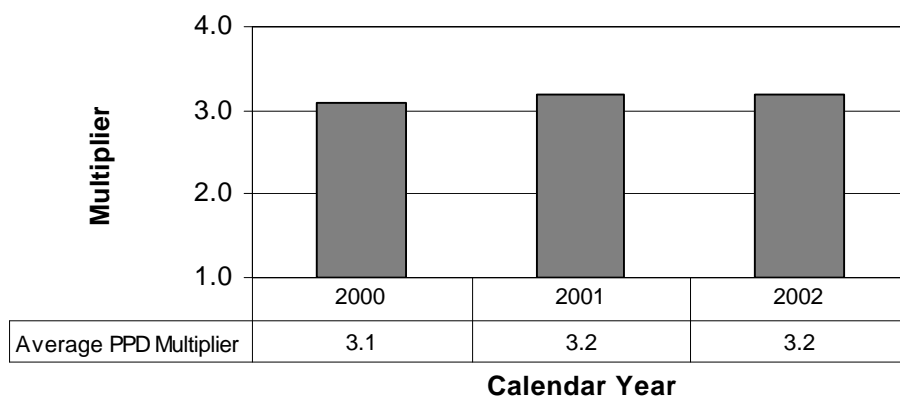
**Average PPI Rating**



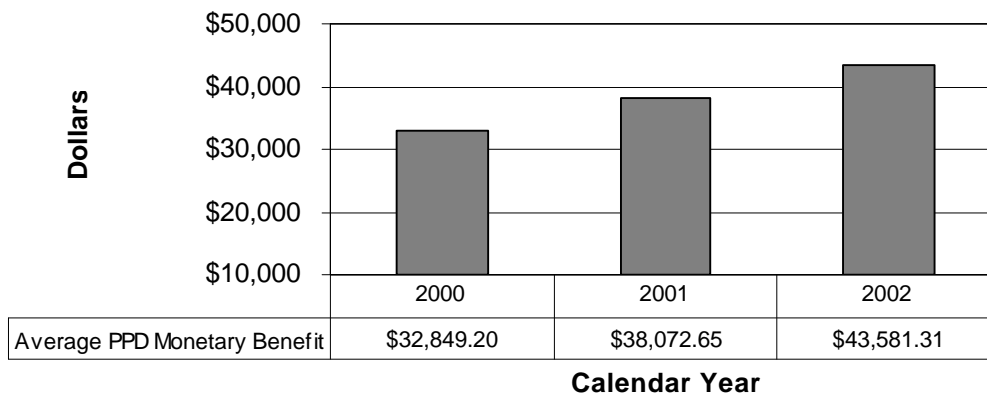
**Average PPD Percentage Awarded**



### Average PPD Multiplier

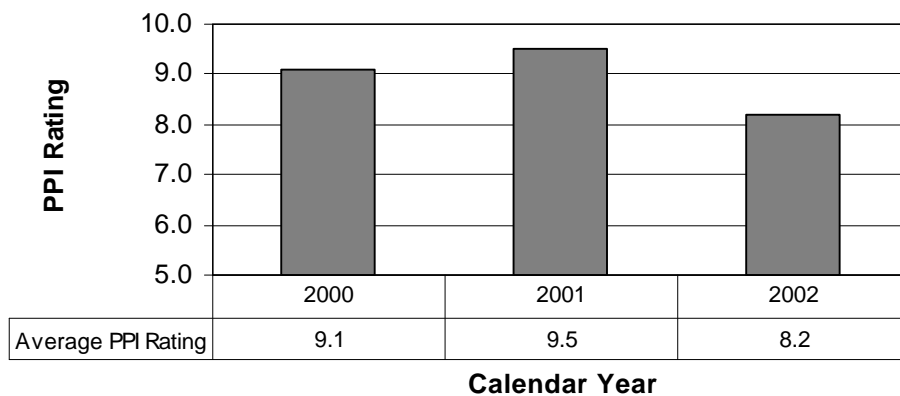


### Average PPD Monetary Benefit

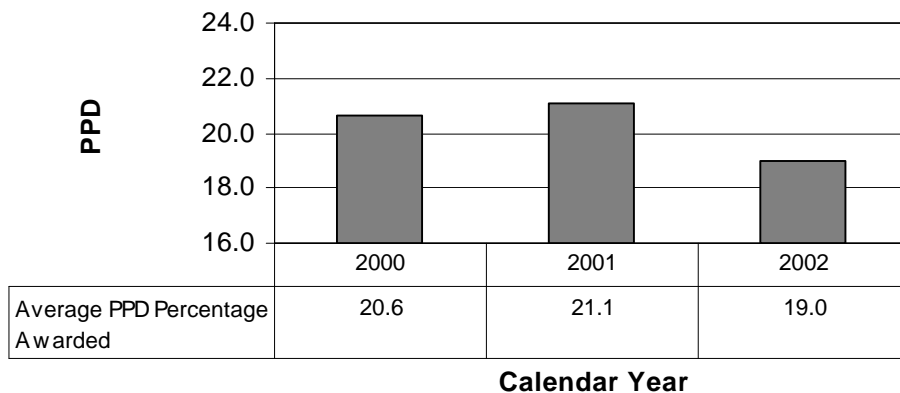


## Arm Injury Cases Where the Injured Worker Returned to Work

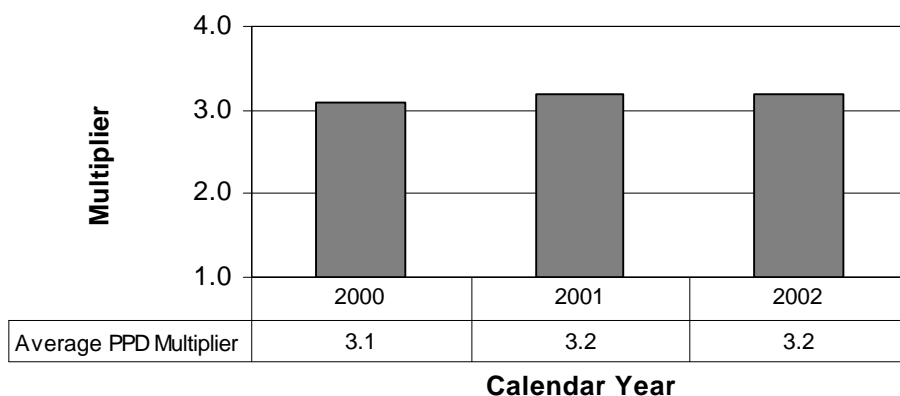
**Average PPI Rating**



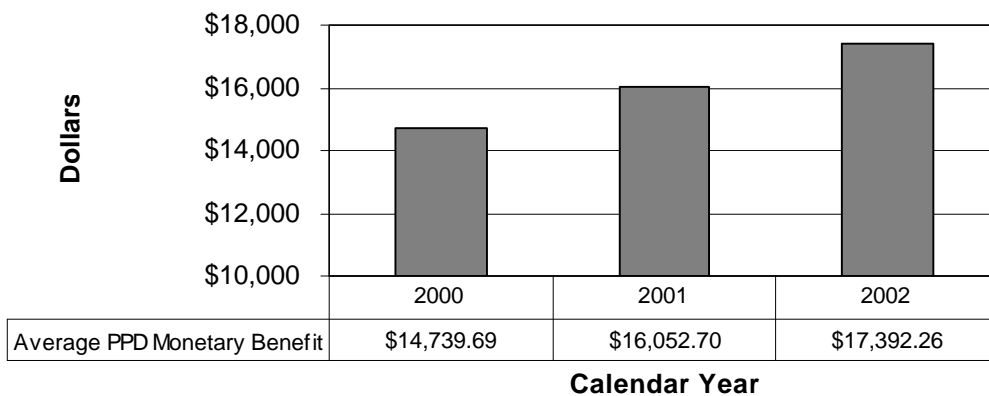
**Average PPD Percentage Awarded**



### Average PPD Multiplier

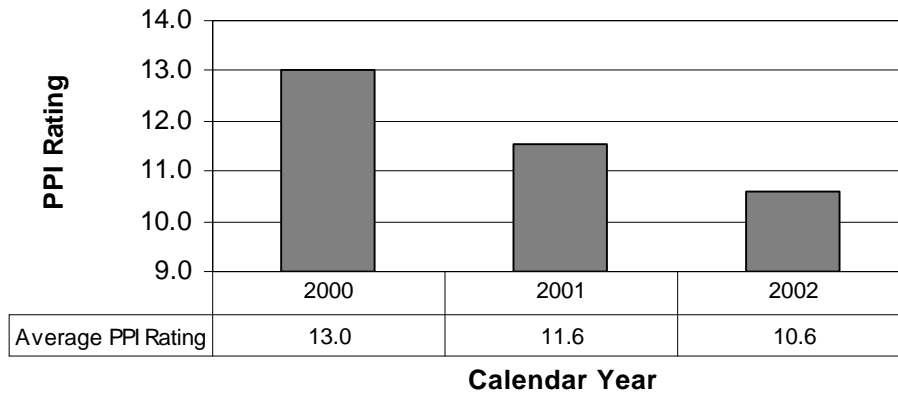


### Average PPD Monetary Benefit

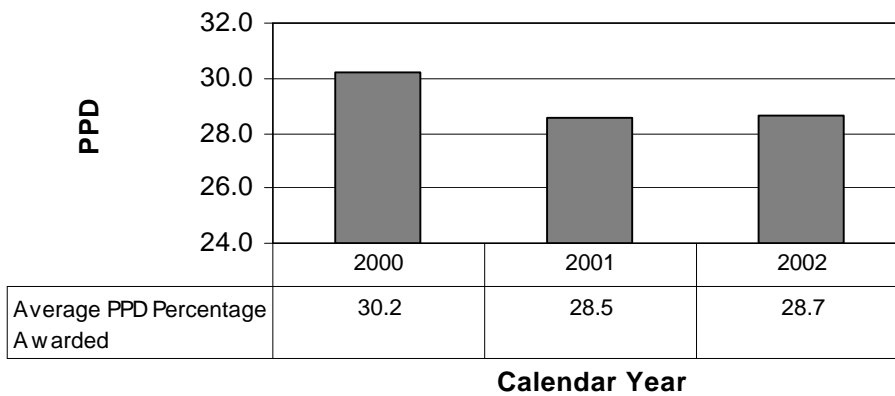


## Arm Injury Cases Where the Injured Worker Did Not Return to Work

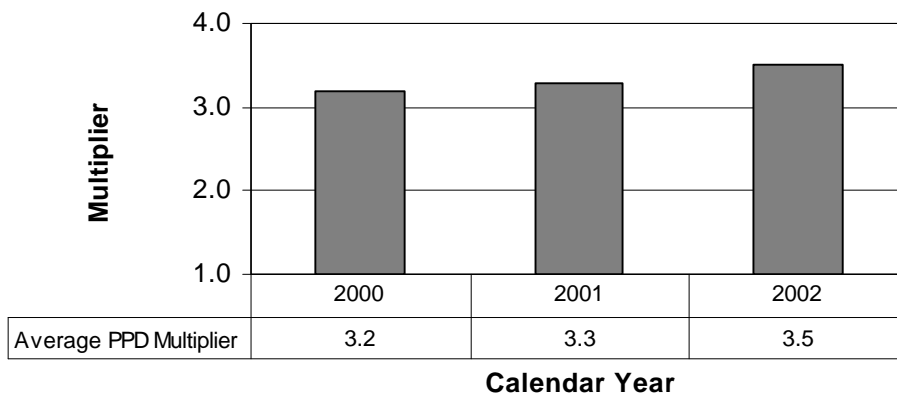
**Average PPI Rating**



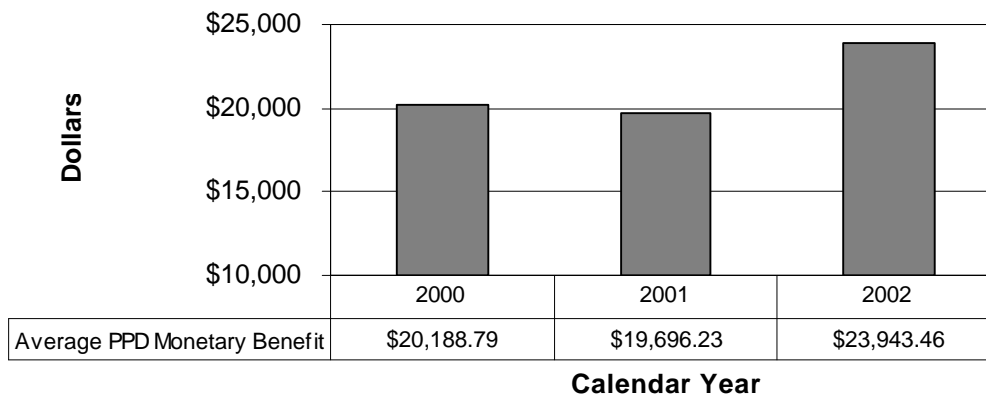
**Average PPD Percentage Awarded**



**Average PPD Multiplier**

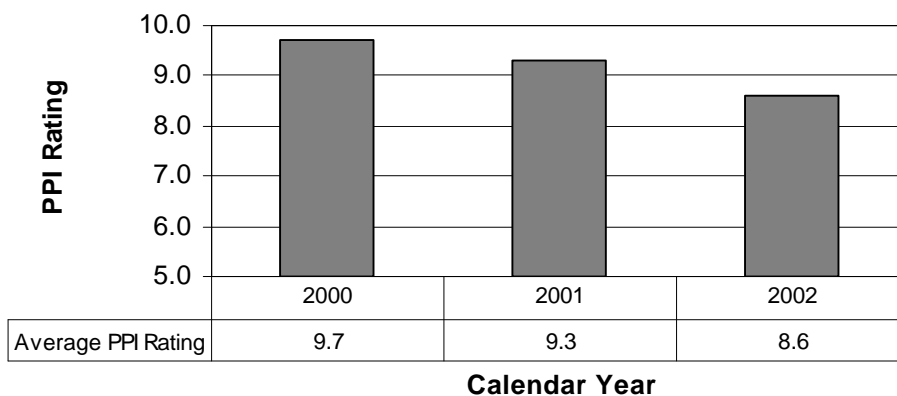


**Average PPD Monetary Benefit**

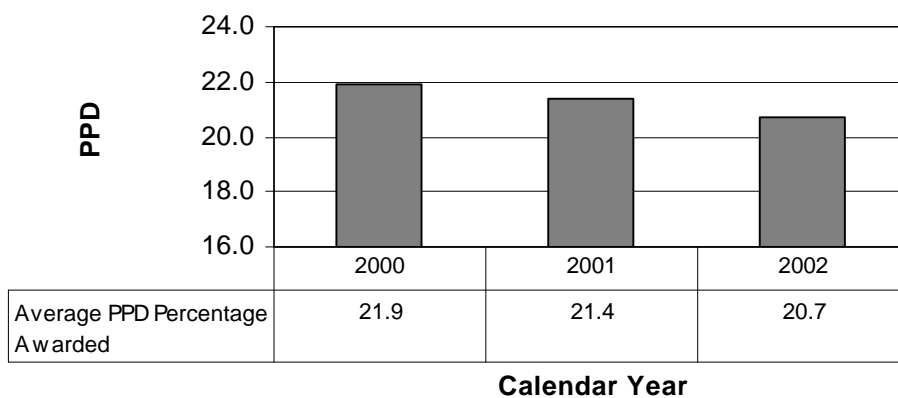


## Leg Injury Cases Where the Injured Worker Returned to Work

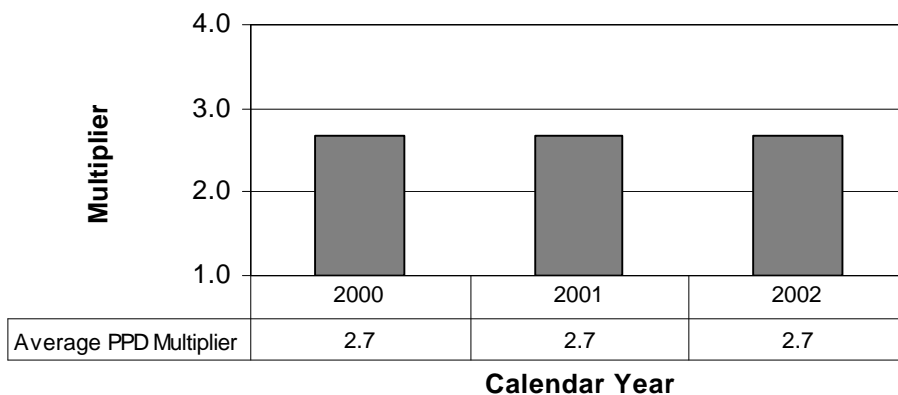
**Average PPI Rating**



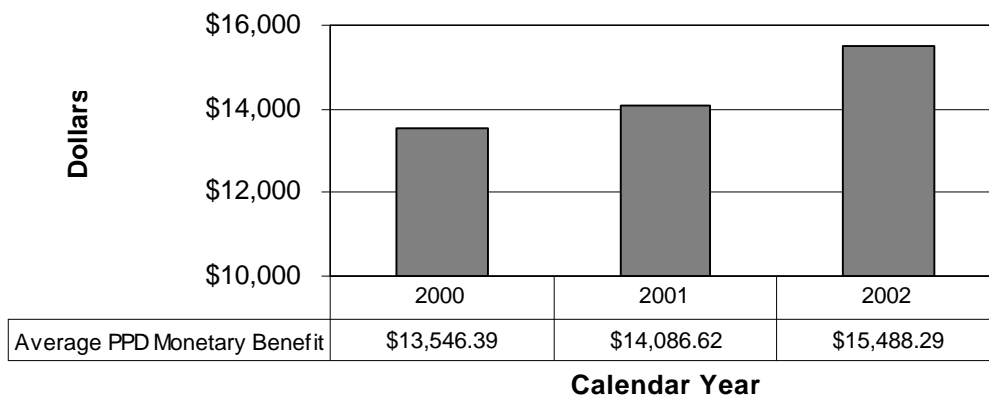
**Average PPD Percentage Awarded**



### Average PPD Multiplier

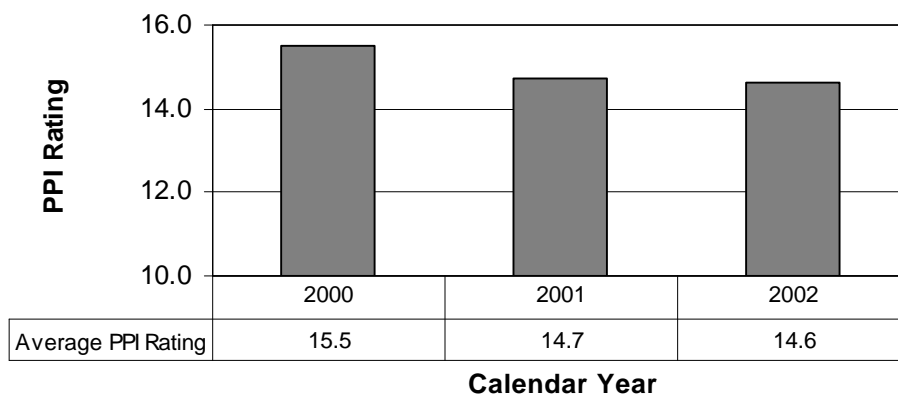


### Average PPD Monetary Benefit

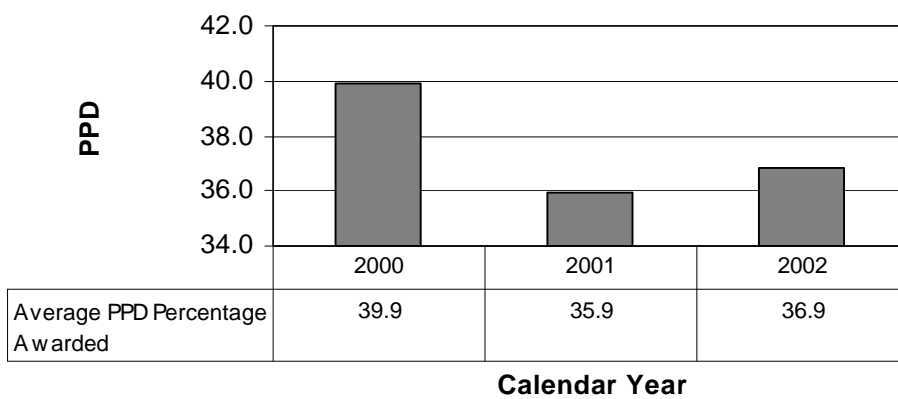


## Leg Injury Cases Where the Injured Worker Did Not Return to Work

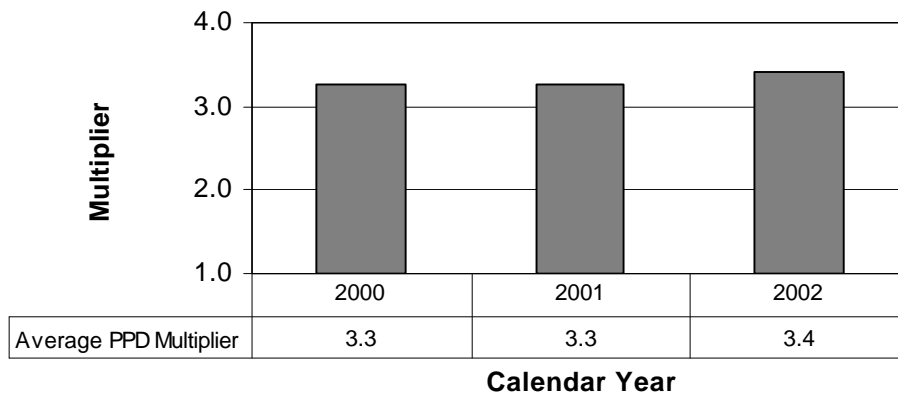
**Average PPI Rating**



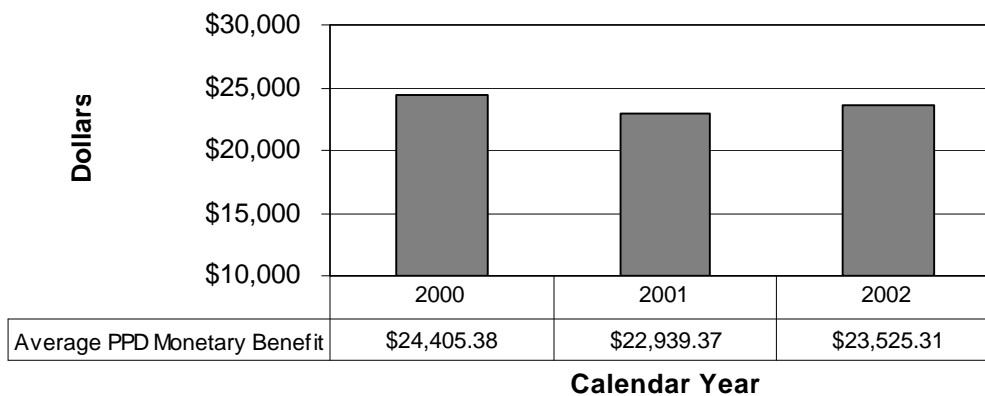
**Average PPD Percentage Awarded**



### Average PPD Multiplier



### Average PPD Monetary Benefit



## APPENDIX 3

### SYNOPSIS OF TENNESSEE WORKERS' COMPENSATION

#### DISABILITY AND MEDICAL BENEFITS - COMPENSABLE CLAIM

In Tennessee, when an employee sustains an injury in the course and scope of his/her employment, the employee is entitled to receive temporary total disability benefits (TTD) if the employee is unable to work for a period of at least seven (7) days. TTD benefits are paid beginning the eighth day unless the employee is unable to work for fourteen (14) days and in that event the employee will receive TTD benefits retroactive to the first day after the injury. *See, TCA §50-6-205, 207.* If the employee returns to work on either a part-time basis or on light duty and does not earn wages equal to the pre-injury wage, then the employee is entitled to temporary partial disability benefits (TPD). *See, TCA §50-6-207.*

The amount of weekly compensation benefits to which the employee is entitled is equal to sixty-six and two-thirds percent (66 2/3%) of the employee's average weekly wage for the fifty-two (52) week period preceding the date of injury, subject to a statutory minimum and maximum weekly compensation rate. For example, for injuries occurring between July 1, 2001 and June 30, 2002, the maximum weekly compensation rate is \$581.00.<sup>40</sup> *See, TCA §50-6-102(a)(7) and TCA §50-6-207.*

The employer is required to furnish any medical treatment necessary as a result of a work related injury. The employer must furnish the injured employee with a list of three physicians (panel choice) from which the employee chooses the "attending physician" for the medical treatment. *See, TCA §50-6-204.* The employer is also responsible for medical treatment provided by any medical care provider to whom the "attending physician" refers the employee. After the employee achieves as much healing as possible, i.e. maximum medical improvement (or MMI), the attending physician

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<sup>40</sup> Maximum compensation rates for injury dates pertaining to this study

| YEAR              | MAX RATE | YEAR              | MAX RATE |
|-------------------|----------|-------------------|----------|
| 8/1/92 to 6/30/93 | \$318.24 | 7/1/98 to 6/30/99 | \$515.00 |
| 7/1/93 to 6/30/94 | \$355.97 | 7/1/99 to 6/30/00 | \$541.00 |
| 7/1/94 to 6/30/95 | \$382.79 | 7/1/00 to 6/30/01 | \$562.00 |
| 7/1/95 to 6/30/96 | \$415.87 | 7/1/01 to 6/30/02 | \$581.00 |
| 7/1/96 to 6/30/97 | \$453.14 | 7/1/02 to 6/30/03 | \$599.00 |
| 7/1/97 to 6/30/98 | \$492.00 |                   |          |

determines whether the employee's condition is permanent in nature and if so, states an opinion as to the employee's "permanent impairment" (PPI rating).

If the employee retains a permanent impairment and has received a PPI rating, the employee is almost always entitled to permanent partial disability benefits (PPD), which is a monetary sum paid by the employer to compensate the employee for the loss of the ability to compete for jobs in the open job market.<sup>41</sup> The amount of PPD benefits which may be awarded by the court to the employee is dependent upon several factors, including type of injury, extent of impairment, age, education, prior work history, job skills, ability to work in the disabled condition and local job opportunities. The award of PPD benefits is also governed by other statutory provisions depending on the type of injury, whether the employer returned the employee to work and other factors. *See, TCA §50-6-207(3); TCA §50-6-241, 242.*

Thus, the first consideration in determining the permanent disability to which the employee may be entitled is to ascertain whether the injury is to the body as a whole (BAW) or to a scheduled member (SM). A scheduled member is a part of the body enumerated in the statute such as finger, arm, hand, toe, foot, leg, eye and hearing. *See, TCA §50-6-207(3)(A)(ii).* All other injuries not specifically provided for in the "schedule" are considered injuries to the body as a whole. Examples of body as a whole injuries include injuries to the back, shoulder, head or a combination of three scheduled member injuries.

If the injury is to a scheduled member, the trial court has full discretion to determine the amount of PPD to which the employee is entitled based on the nature of the injury, the anatomical impairment, the employee's age, education, prior job experience and job skills. The only limitation on the trial court's PPD award for a scheduled member is the maximum number of weeks of disability which is set by statute for the specific member. For example, if the injury is to the arm, the maximum PPD award is 200 weeks of benefits calculated by using the employee's weekly compensation rate. For an employee who has a weekly compensation rate of \$200 and a PPD of

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<sup>41</sup> Tennessee law also allows recovery of PPD benefits if there is medical proof the injury is permanent in nature but the medical provider is unable or refuses to give a PPI rating.

20% to the arm, the amount of compensation for the injury would be \$8,000. If the same employee had lost the arm, the maximum amount of compensation which could be awarded would be \$40,000 (i.e., 200 weeks times \$200 comp rate).

If the injury is to the body, then the amount of PPD to which the employee is entitled will depend first upon whether the employer returned the employee to work earning the same (or greater) pay than the wage being earned at the time of injury. If the employee did return to work under these criteria, then the maximum amount which can be awarded for PPD is two and one-half (2.5) times the impairment rating, as determined by the trial court. The amount of the award is calculated by multiplying the PPD percentage awarded by the Court by 400 weeks, the maximum number of weeks the employee may receive permanent partial disability benefits, and then multiplying that figure by the employee's weekly compensation rate. For example, if an employee whose weekly compensation rate is \$200 sustained a back strain and the only impairment rating given by a doctor was 5%, then the court's award could not exceed 12.5% PPD which equals \$10,000 ( $0.125 \times 400 \text{ weeks} \times \$200$ ), if the employer brought the employee back to work. *See, TCA §50-6-241.*

If the employer does not return the employee to work (earning the same or greater pay), then the maximum amount of PPD which can be awarded by the trial court cannot exceed six (6) times the PPI rating, as determined by the trial court. If the trial court awards a multiplier of five (5) or greater, then the trial court must make specific findings of fact detailing the reasons for the award. The amount of the award is calculated in the same manner as above. For example, if you assume the same type of injury as above, except the employer did not return the employee to work, the maximum PPD which could be awarded would be 30% which equals \$24,000.00 ( $0.30 \times 400 \text{ weeks} \times \$200$ ). *See, TCA §50-6-241.*

If the employer does not return the employee to work at the same or greater pay and the employee meets three of the four following criteria: (1) age 55 or older; (2) no high school diploma or GED or cannot read and write at an eighth grade level; (3) no reasonably transferable job skills; or (4) no reasonable employment opportunities available locally, the trial court is not limited to a multiplier maximum. However, the PPD award in this situation cannot exceed 400 weeks of benefits.

*See, TCA §50-6-242.*

If the employee is totally incapacitated from working at an occupation which brings an income, the employee is considered “permanently totally disabled” and is entitled to permanent total disability benefits (PTD). These PTD benefits are payable until the employee reaches full retirement age, or if the injury occurs after the employee is 60 years old, the employee is entitled to 260 weeks of benefits. Also, Tennessee provides death benefits, in addition to burial expenses and required medical expenses, when an employee dies as a result of a work-related injury. If the employee is unmarried and leaves no dependents, the estate of the employee is entitled to a lump sum of \$20,000.<sup>3</sup> If the employee leaves dependents, compensation is paid at the rate of sixty-six and two-thirds percent ( $66\frac{2}{3}\%$ ) of the employee’s average weekly wages, subject to the maximum weekly benefit.

#### PERMANENT DISABILITY RESOLUTION PROCESS

The Tennessee workers’ compensation system is a court based system rather than a commission system. Generally, when an employee is injured in the course and scope of employment, if the parties (employee, employer and/or workers’ compensation insurance carrier) cannot agree upon the compensation to which the employee is entitled for the injury, either of the parties may submit the dispute to the court for determination of the benefits to which the employee is entitled. Although *TCA §50-6-225*<sup>4</sup>, prior to 1998, provided two methods by which the dispute could be determined, as a practical matter, the disputed cases were submitted to either the circuit or chancery courts in the county where the petitioner (the one filing the action) resides or the county in which the accident occurred. In some counties, the criminal court also hears workers’ compensation cases.<sup>5</sup>

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<sup>3</sup> The amount was raised from \$10,000 to \$20,000 by the General Assembly in 1999.

<sup>4</sup> The amount was raised from \$10,000 to \$20,000 by the General Assembly in 1999.

<sup>5</sup> Tennessee law does provide a mediation process [benefit review conference] by which disputed workers’ compensation claims can be resolved without the necessity of a trial. For injuries which occur after January 1, 1997, the benefit review conference is mandatory, unless both the employer and employee (or their representatives) agree to waive the mandatory benefit review conference. *See, TCA §50-6-239.*

If the workers' compensation claim proceeds to trial, the trial court has discretion to accept the opinion of one physician regarding the permanent impairment rating over the opinion of another physician. The trial court is not required to give more weight to the opinion concerning permanent impairment given by the "attending physician". Both the employer and employee are allowed to present expert testimony of an independent medical doctor, i.e. a doctor who is retained to conduct an independent medical examination for the sole purpose of evaluating the extent of permanent impairment.

Thus, in Tennessee, it is possible for there to be expert testimony concerning the permanent impairment by more than one physician. For those cases in which there are multiple opinions of permanent impairment, it is more probable than not that the opinions will not be the same, even though each physician is required to base the PPI opinion on either the most recent edition of the American Medical Association Guides to the Evaluation of Permanent Impairment or the Manual for Orthopedic Surgeons in Evaluating Permanent Physical Impairment.

As the trial court determines the amount of permanent partial disability to which an employee is entitled, the court not only is required to consider many factors (age, education, job skills, etc.) in addition to the permanent impairment rating but the court is also allowed to select among the various medical impairment ratings which may have been given. This creates the potential for variations in PPD awards to exist--not only among the 31 judicial districts, but also within the same judicial district. Therefore, the reader is encouraged to keep these variables in mind as this report is read and the results interpreted.

## **APPENDIX 4**

### **GLOSSARY OF STATISTICAL TERMS**

#### **analysis of variance (ANOVA)**

a study of the effect of a set of qualitative variables on a quantitative response variable, based on a decomposition of the variance of the latter. A significance test used to determine the difference in the data between judicial districts.

#### **Kruskal-Wallis test**

a significance test used to determine the difference in the data between judicial districts. A nonparametric version of the ANOVA.

#### **mean**

1. the sum of all data values divided by their number.
2. the arithmetic average

#### **median**

the value of the middle item when data are arranged in order of size.

#### **standard deviation**

a measure of variability representing an average distance of the data from the mean; its square is the variance.

#### **statistically significant**

1. a description of evidence in which the discrepancies between data sets are too large or improbable to be attributed to chance.
2. the variance within individual data sets (judicial districts) is less than the variance between the sets (judicial districts)



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